

Friday, April 10, 2026

Matthew Trennum, City Clerk
Office of the City Clerk
The Corporation of the City of Hamilton
71 Main Street,
Hamilton ON
L8P 4Y5

Dear City Clerk,

Re: Ontario Works - Service Delivery Manager Report on Overpayments and Recoveries for the City of Hamilton for the Period of 2022-2025

Please find attached the following appendix for Council reference in regards to the upcoming Ontario Works Eligibility, Verification and Fraud Value for Money Audit with the Office of the Auditor General.

Information was obtained through the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) as well as the Freedom of Information and Protection of Privacy Act (PIPPA)

Appendix A - Ministry of Children, Community and Social Services - Ontario Works Overpayment Outstanding Balance and Recoveries Report - (January 2022 - December - 2024)

Appendix B - 2022 - 2024 Monthly Summary of Total Repayments, Recoveries and Reimbursements on Ontario Works Basic and Mandatory Assistance Comparison between the City of Hamilton G/L and MCCSS Overpayment Outstanding Balance and Recoveries Report

Appendix C - Ontario Works Policy Directive - 9.3 - Recovery of Overpayments

Key highlights for Council review:

Appendix A - Ministry of Children, Community and Social Services - Ontario Works Overpayment Outstanding Balance and Recoveries Report - (January 2022 - December - 2024)

- **During the beginning of this term of Council (November 2022) - Outstanding Overpayments Balance for the City of Hamilton was \$46.76 million of all active and inactive cases of 19,093.**
- **Outstanding Overpayment Balance for the City of Hamilton as of December 2025 is \$56.98 Million of all active and inactive cases of 21,890.**
- **Outstanding Overpayments increased \$10.22 million during this council term as of December 2025**
- **These amounts represent funds that the City needs to collect and return to the Ministry of Children, Community and Social Services.**

Appendix B - 2022 - 2024 Monthly Summary of Total Repayments, Recoveries and Reimbursements on Ontario Works Basic and Mandatory Assistance Comparison between the City of Hamilton G/L and MCCSS Overpayment Outstanding Balance and Recoveries Report

- This report shows discrepancies between what was reported in recoveries of overpayments by the City and returned to MCCSS vs. what is recorded on MCCSS SAMS system.
- The Appendix contains discrepancies and differences between the two reports for your review.

Appendix C - Ontario Works Policy Directive - 9.3 - Recovery of Overpayments

- This is the policy directive for the City and its role and responsibilities as service delivery agent to implement and collect overpayments.

Sincerely,

Hafeez Hussain

Cc: Magda Green, Office of the City Clerk

APPENDIX A - Ministry of Children, Community and Social Services - Ontario Works Overpayment Report (January 2022 - December - 2024)

Ontario Works – Overpayment Balances and Recoveries Hamilton CMSM (2022-2025)

Purpose

To respond to a request for monthly information on Ontario Works overpayment balances and recoveries for the Hamilton CMSM.

Background

This file reports monthly outstanding overpayment balances and new overpayment recoveries for Ontario Works cases administered by Hamilton CMSM.

Structure of Data

Data are reported at the monthly level and include:

- Number of cases with outstanding overpayments (All, Active, Inactive)
- Outstanding overpayment balances (\$M)
- Average outstanding balance per case
- Number of cases with new overpayment recoveries (All, Active, Inactive)
- Recovery amounts (\$M)

Data Considerations

- Active cases refer to Ontario Works cases receiving in the reporting month.
- Inactive cases refer to cases with outstanding overpayments that are no longer receiving Ontario Works.
- All cases include both active and inactive cases.
- Monetary values are reported in millions of dollars (\$M).

Source

Ontario Works Operations Performance Report (OW OPR)
Social Assistance Management System (SAMS)
Ministry of Children, Community and Social Services (MCCSS)

Period

January 2022 – December 2025

2022

Ontario Works – Outstanding Overpayment Balances Hamilton CMSM Monthly Breakdown – 2022													
INDICATORS		Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
Outstanding Overpayment Balance													
All Cases	Cases	18,774	18,800	18,860	18,880	18,887	18,888	18,958	18,975	19,005	19,032	19,093	19,144
	Amount (\$M)	\$44.87	\$45.34	\$45.57	\$45.80	\$45.71	\$46.01	\$46.17	\$46.07	\$46.22	\$46.51	\$46.76	\$46.97
	Average amount of outstanding overpayment balance per case	\$2,390	\$2,412	\$2,416	\$2,426	\$2,420	\$2,436	\$2,435	\$2,428	\$2,432	\$2,444	\$2,449	\$2,454
Active Cases	Cases	3,310	3,370	3,414	3,432	3,377	3,397	3,459	3,427	3,416	3,389	3,400	3,450
	Amount (\$M)	\$10.44	\$10.70	\$10.93	\$10.97	\$10.65	\$10.89	\$11.16	\$11.02	\$10.97	\$11.09	\$11.22	\$11.39
	Average amount of outstanding overpayment balance per case	\$3,153	\$3,176	\$3,201	\$3,198	\$3,154	\$3,205	\$3,226	\$3,217	\$3,212	\$3,273	\$3,299	\$3,300
Inactive Cases	Cases	15,545	15,509	15,526	15,524	15,581	15,564	15,577	15,624	15,673	15,728	15,783	15,782
	Amount (\$M)	\$34.44	\$34.64	\$34.64	\$34.82	\$35.06	\$35.13	\$35.01	\$35.05	\$35.25	\$35.41	\$35.54	\$35.59
	Average amount of outstanding overpayment balance per case	\$2,215	\$2,234	\$2,231	\$2,243	\$2,250	\$2,257	\$2,248	\$2,243	\$2,249	\$2,252	\$2,252	\$2,255

Ontario Works – New Overpayment Recoveries Hamilton CMSM Monthly Breakdown – 2022													
		Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
New Overpayment Recoveries													
All Cases	Cases	2,938	3,031	3,115	3,022	3,009	3,060	2,955	3,059	3,006	2,951	3,049	3,138
	Amount (\$M)	\$0.28	\$0.30	\$0.37	\$0.32	\$0.31	\$0.29	\$0.24	\$0.31	\$0.22	\$0.28	\$0.31	\$0.31
	Average amount of new overpayment recovery per case	\$94.80	\$98.03	\$118.97	\$105.61	\$103.90	\$95.91	\$82.72	\$100.84	\$74.00	\$95.33	\$100.88	\$98.33
Active Cases	Cases	2,668	2,775	2,852	2,794	2,766	2,786	2,742	2,813	2,777	2,735	2,798	2,909
	Amount (\$M)	\$0.22	\$0.25	\$0.23	\$0.22	\$0.25	\$0.23	\$0.20	\$0.23	\$0.19	\$0.20	\$0.22	\$0.26
	Average amount of new overpayment recovery per case	\$81	\$90	\$79	\$77	\$92	\$82	\$74	\$81	\$68	\$72	\$77	\$89
Inactive Cases	Cases	272	259	266	230	245	275	214	248	232	219	253	232
	Amount (\$M)	\$0.06	\$0.05	\$0.15	\$0.10	\$0.06	\$0.06	\$0.04	\$0.08	\$0.03	\$0.09	\$0.09	\$0.05
	Average amount of new overpayment recovery per case	\$229	\$186	\$546	\$453	\$236	\$232	\$197	\$328	\$140	\$391	\$363	\$208

2023

Ontario Works – Outstanding Overpayment Balances Hamilton CMSM													
Monthly Breakdown – 2023													
INDICATORS		Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23
Outstanding Overpayment Balance													
All Cases	Cases	19,196	19,257	19,292	19,297	19,338	19,394	19,416	19,450	19,540	19,553	19,574	19,626
	Amount (\$M)	\$47.07	\$47.10	\$47.33	\$47.46	\$47.55	\$48.07	\$48.27	\$48.61	\$48.97	\$48.87	\$49.01	\$49.02
	Average amount of outstanding overpayment balance per case	\$2,452	\$2,446	\$2,454	\$2,460	\$2,459	\$2,478	\$2,486	\$2,499	\$2,506	\$2,499	\$2,504	\$2,498
Active Cases	Cases	3,467	3,494	3,491	3,520	3,440	3,445	3,435	3,440	3,550	3,455	3,514	3,574
	Amount (\$M)	\$11.37	\$11.37	\$11.45	\$11.54	\$11.33	\$11.46	\$11.66	\$12.09	\$12.50	\$12.03	\$12.30	\$12.41
	Average amount of outstanding overpayment balance per case	\$3,278	\$3,254	\$3,281	\$3,278	\$3,295	\$3,326	\$3,395	\$3,515	\$3,522	\$3,482	\$3,499	\$3,472
Inactive Cases	Cases	15,819	15,848	15,888	15,868	15,984	16,044	16,079	16,106	16,081	16,183	16,143	16,142
	Amount (\$M)	\$35.70	\$35.73	\$35.88	\$35.92	\$36.22	\$36.61	\$36.60	\$36.52	\$36.47	\$36.84	\$36.71	\$36.61
	Average amount of outstanding overpayment balance per case	\$2,257	\$2,255	\$2,258	\$2,264	\$2,266	\$2,282	\$2,277	\$2,268	\$2,268	\$2,277	\$2,274	\$2,268

Ontario Works – New Overpayment Recoveries Hamilton CMSM													
Monthly Breakdown – 2023													
INDICATORS		Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23
New Overpayment Recoveries													
All Cases	Cases	3,011	3,064	3,166	3,007	3,047	3,093	3,018	3,052	3,126	3,098	3,149	3,245
	Amount (\$M)	\$0.30	\$0.29	\$0.34	\$0.36	\$0.34	\$0.37	\$0.30	\$0.27	\$0.31	\$0.37	\$0.30	\$0.32
	Average amount of new overpayment recovery per case	\$100.89	\$93.56	\$108.81	\$118.99	\$111.34	\$118.66	\$100.39	\$89.91	\$99.94	\$118.61	\$93.91	\$100.09
Active Cases	Cases	2,749	2,838	2,893	2,800	2,820	2,866	2,792	2,829	2,911	2,872	2,928	3,056
	Amount (\$M)	\$0.22	\$0.23	\$0.24	\$0.31	\$0.27	\$0.28	\$0.24	\$0.21	\$0.24	\$0.25	\$0.22	\$0.25
	Average amount of new overpayment recovery per case	\$79	\$82	\$85	\$110	\$96	\$99	\$85	\$73	\$83	\$86	\$75	\$81
Inactive Cases	Cases	263	228	275	208	231	233	229	225	218	226	222	189
	Amount (\$M)	\$0.09	\$0.05	\$0.10	\$0.05	\$0.07	\$0.08	\$0.07	\$0.07	\$0.07	\$0.12	\$0.07	\$0.08
	Average amount of new overpayment recovery per case	\$328	\$240	\$363	\$235	\$300	\$360	\$285	\$308	\$331	\$536	\$337	\$406

2024

Ontario Works – Outstanding Overpayment Balances Hamilton CMSM													
Monthly Breakdown – 2024													
INDICATORS		Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24
Outstanding Overpayment Balance													
All Cases	Cases	19,689	19,685	19,791	19,813	19,883	19,993	20,053	20,158	20,273	20,369	20,550	20,854
	Amount (\$M)	\$48.96	\$49.24	\$49.38	\$49.52	\$49.79	\$49.95	\$50.19	\$50.91	\$51.10	\$51.36	\$52.00	\$52.46
	Average amount of outstanding overpayment balance per case	\$2,487	\$2,501	\$2,495	\$2,499	\$2,504	\$2,498	\$2,503	\$2,526	\$2,521	\$2,521	\$2,530	\$2,516
Active Cases	Cases	3,556	3,537	3,691	3,689	3,692	3,725	3,709	3,733	3,730	3,767	3,908	4,134
	Amount (\$M)	\$11.99	\$12.23	\$12.69	\$12.66	\$12.67	\$12.51	\$12.58	\$12.68	\$12.60	\$12.68	\$12.81	\$13.08
	Average amount of outstanding overpayment balance per case	\$3,370	\$3,457	\$3,439	\$3,432	\$3,431	\$3,358	\$3,391	\$3,395	\$3,379	\$3,366	\$3,278	\$3,164
Inactive Cases	Cases	16,221	16,235	16,186	16,207	16,277	16,357	16,424	16,507	16,624	16,694	16,736	16,816
	Amount (\$M)	\$36.98	\$37.01	\$36.69	\$36.86	\$37.12	\$37.44	\$37.61	\$38.23	\$38.50	\$38.68	\$39.19	\$39.38
	Average amount of outstanding overpayment balance per case	\$2,280	\$2,279	\$2,267	\$2,274	\$2,280	\$2,289	\$2,290	\$2,316	\$2,316	\$2,317	\$2,342	\$2,342

Ontario Works – New Overpayment Recoveries Hamilton CMSM													
Monthly Breakdown – 2024													
INDICATORS		Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24
New Overpayment Recoveries													
All Cases	Cases	3,138	3,297	3,383	3,202	3,300	3,225	3,266	3,353	3,275	3,390	3,503	3,717
	Amount (\$M)	\$0.34	\$0.29	\$0.27	\$0.25	\$0.29	\$0.26	\$0.22	\$0.27	\$0.28	\$0.28	\$0.29	\$0.27
	Average amount of new overpayment recovery per case	\$109.11	\$86.75	\$80.67	\$78.21	\$88.35	\$81.58	\$67.89	\$79.67	\$85.91	\$81.54	\$81.37	\$73.67
Active Cases	Cases	2,911	3,071	3,239	3,000	3,079	3,012	3,053	3,142	3,047	3,144	3,282	3,506
	Amount (\$M)	\$0.26	\$0.21	\$0.24	\$0.20	\$0.25	\$0.20	\$0.19	\$0.23	\$0.20	\$0.22	\$0.22	\$0.21
	Average amount of new overpayment recovery per case	\$90	\$67	\$74	\$65	\$80	\$66	\$62	\$74	\$64	\$69	\$66	\$61
Inactive Cases	Cases	230	227	145	202	222	214	214	211	230	249	222	213
	Amount (\$M)	\$0.08	\$0.08	\$0.03	\$0.05	\$0.04	\$0.07	\$0.03	\$0.03	\$0.09	\$0.06	\$0.07	\$0.06
	Average amount of new overpayment recovery per case	\$344	\$349	\$226	\$268	\$202	\$306	\$147	\$166	\$373	\$244	\$309	\$277

2025

Ontario Works – Outstanding Overpayment Balances Hamilton CMSM Monthly Breakdown – 2025													
INDICATORS		Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25
Outstanding Overpayment Balance													
All Cases	Cases	20,969	21,071	21,124	21,177	21,339	21,449	21,537	21,609	21,693	21,746	21,810	21,890
	Amount (\$M)	\$52.66	\$53.12	\$53.32	\$53.61	\$53.92	\$54.54	\$54.75	\$55.62	\$55.67	\$56.02	\$56.54	\$56.98
	Average amount of outstanding overpayment balance per case	\$2,511	\$2,521	\$2,524	\$2,532	\$2,527	\$2,543	\$2,542	\$2,574	\$2,566	\$2,576	\$2,592	\$2,603
Active Cases	Cases	4,220	4,165	4,140	4,096	4,138	4,180	4,211	4,208	4,207	4,197	4,236	4,250
	Amount (\$M)	\$13.36	\$13.27	\$13.27	\$13.15	\$13.42	\$13.60	\$13.42	\$13.78	\$13.67	\$13.69	\$14.10	\$14.24
	Average amount of outstanding overpayment balance per case	\$3,167	\$3,187	\$3,205	\$3,211	\$3,244	\$3,254	\$3,187	\$3,275	\$3,250	\$3,262	\$3,329	\$3,350
Inactive Cases	Cases	16,841	16,999	17,085	17,175	17,291	17,362	17,409	17,486	17,576	17,642	17,668	17,726
	Amount (\$M)	\$39.30	\$39.84	\$40.05	\$40.46	\$40.49	\$40.94	\$41.33	\$41.83	\$42.00	\$42.33	\$42.44	\$42.75
	Average amount of outstanding overpayment balance per case	\$2,333	\$2,344	\$2,344	\$2,356	\$2,342	\$2,358	\$2,374	\$2,392	\$2,390	\$2,399	\$2,402	\$2,412

Ontario Works – New Overpayment Recoveries Hamilton CMSM Monthly Breakdown – 2025													
INDICATORS		Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25
New Overpayment Recoveries													
All Cases	Cases	3,697	3,747	3,772	3,709	3,839	3,894	3,916	3,857	4,011	4,001	3,826	4,419
	Amount (\$M)	\$0.40	\$0.39	\$0.45	\$0.36	\$0.40	\$0.50	\$0.43	\$0.34	\$0.40	\$0.42	\$0.36	\$0.45
	Average amount of new overpayment recovery per case	\$107.30	\$103.40	\$119.32	\$95.96	\$103.52	\$127.37	\$109.51	\$88.65	\$100.10	\$105.66	\$95.29	\$102.15
Active Cases	Cases	3,459	3,499	3,495	3,399	3,509	3,425	3,564	3,489	3,452	3,577	3,465	3,706
	Amount (\$M)	\$0.30	\$0.30	\$0.32	\$0.28	\$0.28	\$0.36	\$0.32	\$0.25	\$0.27	\$0.27	\$0.26	\$0.30
	Average amount of new overpayment recovery per case	\$87	\$85	\$91	\$82	\$79	\$104	\$90	\$71	\$78	\$77	\$75	\$80
Inactive Cases	Cases	241	250	279	311	331	470	353	369	561	425	361	714
	Amount (\$M)	\$0.10	\$0.09	\$0.13	\$0.08	\$0.12	\$0.14	\$0.11	\$0.09	\$0.13	\$0.15	\$0.10	\$0.16
	Average amount of new overpayment recovery per case	\$402	\$365	\$467	\$251	\$367	\$297	\$309	\$254	\$239	\$350	\$291	\$217

APPENDIX B					
2022 - 2024 Monthly Summary of Total Repayments, Recoveries and Reimbursements on Ontario Works Basic and Mandatory Assistance					
City of Hamilton					
2022	Total Amount of Overpayments Active/Inactive - MCCSS Report			City of Hamilton Reported G/L	MCCSS Reported - FOI
Month	Amount Outstanding		Total Cases	Total Repayments, Recoveries and Reimbursements Collected	Total Amount of Overpayment Recoveries
January	\$44,870,000.00		18,774	\$334,275.79	\$280,000.00
February	\$48,340,000.00		18,800	\$366,615.98	\$300,000.00
March	\$45,570,000.00		18,860	\$348,845.06	\$370,000.00
April	\$45,800,000.00		18,880	\$376,559.59	\$320,000.00
May	\$45,710,000.00		18,887	\$311,584.90	\$310,000.00
June	\$46,010,000.00		18,888	\$378,579.42	\$290,000.00
July	\$46,170,000.00		18,958	\$327,563.94	\$240,000.00
August	\$46,070,000.00		18,975	\$320,028.46	\$310,000.00
September	\$46,220,000.00		19,905	\$347,484.85	\$220,000.00
October	\$46,510,000.00		19,032	\$312,532.21	\$280,000.00
November	\$46,760,000.00		19,093	\$337,498.67	\$310,000.00
December	\$46,970,000.00		19,144	\$305,636.36	\$310,000.00
Total	\$46,970,000.00			\$4,067,205.23	\$3,540,000.00
					Difference
					\$527,205.23
2023	Total Amount of Overpayments Active/Inactive - MCCSS Report			City of Hamilton Reported G/L	MCCSS Reported - FOI
Month	Amount Outstanding		Total Cases	Total Repayments, Recoveries and Reimbursements Collected	Total Amount of Overpayment Recoveries

January	\$47,070,000.00		19,196	\$324,306.03	\$300,000.00
February	\$47,100,000.00		19,257	\$356,124.67	\$290,000.00
March	\$47,330,000.00		19,292	\$406,556.64	\$340,000.00
April	\$47,480,000.00		19,297	\$473,097.30	\$360,000.00
May	\$47,550,000.00		19,338	\$353,066.50	\$340,000.00
June	\$48,070,000.00		19,394	\$453,129.91	\$370,000.00
July	\$48,270,000.00		19,416	\$395,156.24	\$300,000.00
August	\$48,610,000.00		19,450	\$337,812.01	\$270,000.00
September	\$48,970,000.00		19,540	\$388,178.94	\$310,000.00
October	\$48,870,000.00		19,553	\$361,419.18	\$370,000.00
November	\$49,010,000.00		19,574	\$390,707.89	\$300,000.00
December	\$49,020,000.00		19,626	\$351,912.69	\$320,000.00
Total				\$4,591,468.00	\$3,870,000.00

Difference **\$721,468.00**

2024				City of Hamilton Reported G/L	MCCSS Reported - FOI
Month			Total Cases	Total Repayments, Recoveries and Reimbursements Collected	Total Amount of Overpayment Recoveries
January	\$48,960,000.00		19,689	\$387,503.04	\$340,000.00
February	\$49,240,000.00		19,685	\$285,994.57	\$290,000.00
March	\$49,380,000.00		19,791	\$308,176.00	\$270,000.00
April	\$49,520,000.00		19,813	\$253,605.60	\$250,000.00
May	\$49,790,000.00		19,883	\$255,822.31	\$290,000.00
June	\$49,950,000.00		19,993	\$293,853.89	\$260,000.00
July	\$50,190,000.00		20,053	\$285,421.74	\$220,000.00
August	\$50,910,000.00		20,158	\$546,567.38	\$270,000.00
September	\$51,100,000.00		20,273	\$423,328.36	\$280,000.00

October	\$51,360,000.00		20,369	\$302,376.16	\$280,000.00	
November	\$52,000,000.00		20,550	\$422,173.33	\$290,000.00	
December	\$52,460,000.00		20,854	\$317,376.90	\$270,000.00	
Totals				\$4,082,199.28	\$3,310,000.00	
					Difference	\$772,199.28

Previous (<https://www.ontario.ca/document/ontario-works-policy-directives/92-absence-ontario>)

Next (<https://www.ontario.ca/document/ontario-works-policy-directives/94-overpayments-due-excess-assets>)

9.3 Recovery of overpayments

August 2025

Legislative authority

Sections 19–23, 28 (6) and 32 of the *Ontario Works Act*

Section 62 of the Ontario Works General Regulation

Section 10 of the Ontario Works General Regulation

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.

A copy of the **Notice of Decision** is kept on file.

Systems are updated and maintained.

Accounting principles are adhered to.

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

A signed **Rights and Responsibilities** form is on file. For clarity, a signature may be provided electronically via approved methods or as a “wet signature” (pen to paper).

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

Application of policy

The delivery agent and delivery partners must ensure that a recipient receives only the amount of assistance for which they are eligible, based on all available information.

The delivery agent and delivery partners must ensure that a recipient is aware of their reporting requirements. If notification regarding a new or changed circumstance is provided by a recipient or identified through a file review, this information must be actioned in a timely manner to prevent the creation of, or reduce the amount of, a new overpayment.

If an amount has been provided to the recipient that exceeds the amount they were eligible to receive, the excess is an overpayment. In addition, if a recipient, spouse or dependent fails to honour an Assignment or Agreement to Reimburse, the amount is an overpayment.

All overpayments are subject to recovery. Only under exceptional circumstances is an overpayment considered uncollectible.

The overpayment must be calculated accurately, and the reason(s) for the overpayment and the period of time to which it applies must be fully documented. Overpayment collection should only take place if there is documentation to substantiate the overpayment.

For active cases, notice must be given to the recipient in writing (and spouse, if applicable) of the amount of the overpayment, the period to which it applies, the reason it was incurred, and their rights to appeal (see Directive 9.5: Sharing of

overpayments between spouses (<https://www.ontario.ca/document/ontario-works-policy-directives/95-sharing-overpayments-between-spouses>) for more information).

Overpayments on active cases should be recovered by reducing monthly financial assistance.

Where arrears of basic financial assistance are owed to the recipient, the Administrator may apply up to 100% of the arrears toward an existing overpayment. Staff should exercise discretion before applying arrears towards an existing overpayment and consider a recipient's individual circumstances (for more information, please see the Applying Arrears to an Overpayment section).

Establishing an overpayment

An overpayment should be established where a recipient receives an amount in excess of the amount to which the recipient was eligible to receive. Reasons for establishing an overpayments includes, but are not limited to, delays in reporting changes in circumstances, non-disclosure of information, misrepresentation of facts, administrative error, and excess income and assets that are not exempt under Ontario Works (see Directive 9.4: Overpayments due to excess assets (<https://www.ontario.ca/document/ontario-works-policy-directives/94-overpayments-due-excess-assets>) for more information).

An overpayment should only be established if there is documentation to substantiate it. If upon review of an existing overpayment, the delivery agent or a delivery partner cannot find sufficient documentation or evidence to validate the overpayment, it should not be established or recovered and should be recommended for write off (for more information, please see the Administrative write-off process section).

Where a recipient does not use their financial assistance payment for the intended purpose (for example, to pay for their shelter costs) an overpayment should not be established. Rather, pay direct or trusteeship may be options to consider to ensure the recipient retains their lodging (see Directive 3.6 – Trusteeship (<https://www.ontario.ca/document/ontario-works-policy-directives/36-trusteeship>) and Directive 3.7 – Pay direct (<https://www.ontario.ca/document/ontario-works-policy-directives/37-pay-direct>) for more information).

Overpayment for non-compliant recipients

Where basic financial assistance is reduced or cancelled because of non-compliance (for example, not showing up for an eligibility review meeting, not providing necessary information to determine eligibility) and it is determined that the recipient received assistance that they were not eligible to receive, an overpayment should be established. The overpayment should apply to the period of time for which there is documentation to substantiate that the recipient received assistance that exceeded the amount they were eligible to receive (see Directive 6.13: Calculating reduced assistance (<https://www.ontario.ca/document/ontario-works-policy-directives/613-calculating-reduced-assistance>) and Directive 9.1: Reviewing eligibility (<https://www.ontario.ca/document/ontario-works-policy-directives/91-reviewing-eligibility>) for more information).

Overpayment on benefits

A payment for a benefit provided to a recipient, spouse or dependent in a month where they were deemed ineligible should be established as an overpayment and may be recovered, with the following exceptions:

- where the amount of the benefit cannot be quantified
- where a recipient was found to be ineligible for social assistance for a month due to high earnings but was eligible the following month.

Recovery of overpayments

The delivery agent and delivery partners should attempt to collect 100% of an overpayment where there is evidence to substantiate the overpayment.

In exceptional circumstances and/or where a recipient requests an internal review of an overpayment decision, an overpayment may be reduced or not recovered where the situation warrants reduction or non-recovery. In exercising this discretion, staff should consider the individual circumstances of the case, including but not limited to the role of the recipient in the creation of the overpayment (for example, whether there is a history of overpayments on file as a result of not reporting changes in circumstances), the role of staff in creating the overpayment and hardship. There may also be circumstances that may warrant suspending recovery (please see the Temporarily uncollectible overpayments section) or deeming part or all of an overpayment permanently uncollectible (for example, the balance of an overpayment remaining after a bankruptcy settlement).

Overpayment recovery should be activated when an overpayment balance is over \$2.50. Where the balance is \$2.50 or less, the overpayment should be deemed temporarily uncollectible, and may be recommended for write off during the annual write off process (for more information, please see the Temporarily uncollectible overpayments section and the Administrative write-off process section).

Where ongoing recovery has reduced the overpayment to \$2.50 or less, recovery should continue until the overpayment is reduced to \$0.

Overpayments on active cases

Overpayments on active cases, including cases previously terminated and re-granted, are recovered by reducing monthly financial assistance. The default recovery rate in the Social Assistance Management System (SAMS) is set at 5% of budgetary requirements. However, the prescribed rate of recovery is a maximum of 10% of budgetary requirements.

Recovery of overpayments may be increased up to the maximum prescribed rate of 10% where there is evidence of the recipient's capacity to pay. Additionally, an Administrator should increase recovery to the prescribed rate of 10% when a new overpayment is established through the following circumstances:

- Eligibility Verification Process (EVP) review
- Complaint Assessment (preliminary or secondary review)
- the new overpayment is covering three or more benefit months
- new overpayment created is \$1,000 or more
- the recipient has multiple overpayments on file that were a result of separate changes and were collectively not a result of an administrative error or do not have valid exceptional circumstances for late reporting.

Administrators may use their discretion to not recover an overpayment at the rate of 10% as described above and may set a lower recovery rate when the following circumstances are present:

- individual was not informed of their reporting requirements
- the reason for the overpayment was an administrative error

- factors reasonably beyond an individual's control that prevented reporting in a timely and/or accurate manner (for example, hospitalization, fleeing abuse and/or exploitation).

In situations where the recipient provides evidence that demonstrates, to the satisfaction of the Administrator, that the application of the maximum prescribed rate of overpayment recovery will result in undue hardship, the Administrator may use their discretion to set a lower recovery rate.

Applying arrears to an overpayment

Where arrears of basic financial assistance are owed to a recipient, the Administrator may apply 100% of such arrears to an existing overpayment. The recipient (and spouse, if applicable) must be advised in writing that arrears owed are being applied to an existing overpayment.

The Administrator should review the amount of the arrears that will be applied to an existing overpayment with the recipient. Where arrears may be owing to a recipient (and spouse, if applicable) that has an existing overpayment, the Administrator should exercise discretion in applying this policy so that it does not create undue hardship for the recipient. In situations where arrears are incurred as a result of circumstances outside the control of the recipient, full arrears should be paid to a recipient rather than applying them to the overpayment. For example, arrears should be paid to a recipient if their rent is increased retroactively following a Landlord and Tenant Board decision.

Personal needs allowance and special boarder allowance

If the recipient receives a personal needs allowance (PNA), and this amount is the recipient's only source of income, then the Administrator may consider the overpayment amount as temporarily uncollectible (for more information, please see the Temporarily uncollectible overpayments section).

If the recipient receives a PNA and the recipient has chargeable income against their basic financial assistance, overpayment recovery may take place as long as the recipient's monthly income from all sources does not fall below the amount of the PNA. Where recovery would result in the recipient's monthly income falling below the amount of the PNA, then the Administrator may consider the overpayment amount as

temporarily uncollectable (for more information, please see the Temporarily uncollectible overpayments section).

In cases where the Special Boarder Allowance (SBA) is a component of the financial assistance and an overpayment exists, overpayment recovery may continue as long as the recipient's monthly income from all sources does not fall below the SBA amount.

Support deduction notice and overpayment recovery

If a Support Deduction Notice (SDN) issued by the Family Responsibility Office (FRO) is received for a recipient and an overpayment is being recovered, the SDN has priority over the overpayment recovery. The combined total amount that may be deducted to recover an overpayment and to honour a SDN cannot exceed 10% of budgetary requirements unless the recipient agrees in writing to the remittance of a greater amount (see Directive 6.15: Protection from seizure or garnishment (<https://www.ontario.ca/document/ontario-works-policy-directives/615-protection-seizure-or-garnishment>) for more information). This means that the rate of recovery may need to be reduced or overpayment recovery may need to be suspended while the SDN is in effect (for more information, please see the Temporarily uncollectible overpayments section).

Overpayments on inactive cases – referral for overpayment recovery to the ministry

All overpayments for persons no longer receiving assistance are subject to recovery.

Ontario Works delivery partners are to refer “new inactive” Ontario Works overpayments to the ministry, in accordance with the timelines set out in Schedule 1.

“New inactive” overpayments are debts owed by former Ontario Works recipients who terminated from the program on or after the date that office was designated as a delivery partner. This includes all pre-existing overpayments on the recipient’s file.

Debts owed to the City of Toronto that were deemed as Crown debt as of May 2013 may also be referred to the ministry for recovery.

For a “new inactive” overpayment to be eligible for referral to the ministry, all of the following criteria must be met:

- date of termination of the Ontario Works case is on or after the applicable date (by geographic area) as set out in Schedule 1 to this Directive;
- the case has been closed for at least 60 days and notice was sent to the recipient to advise of the outstanding overpayment and the right to appeal;
- the period to request an Internal Review and/or an appeal to the Social Benefits Tribunal related to the overpayment has expired or all decisions made were final, and;
- overpayments must have been validated (meaning, all details of the overpayment are assessed and determined to be accurate), determined to be collectible and documented in SAMS.

Historical debts, which are overpayments owed by former Ontario Works recipients whose Ontario Works case was terminated before the date the office was designated as a delivery partner, are not eligible for referral at this time and remain owed to, and collectible by, the delivery partner for the geographic area.

Overpayments on inactive cases – recovery by municipalities (delivery partners with historical debt that was incurred before the date they became a delivery partner)

All overpayments for persons no longer receiving assistance are subject to recovery.

When a case is terminated with an outstanding overpayment, the delivery partner should review the file to ensure that the amount of the overpayment is correct and make a recommendation regarding the status and collection of the overpayment. Attempts to recover the overpayment debt from the former recipient through voluntary repayment arrangements should be made. The delivery partner will respond to former recipient and/or advocate inquiries regarding the overpayment according to established protocols.

The delivery partner should ensure a variety of payment methods are available to former recipients, including payment via cheques, post-dated cheques, money orders, credit cards, electronic transfer of funds and cash.

The delivery partner may choose to engage a third party (for example, a private collection agency) to perform debt collection activities in accordance with delivery partner procedures based on relevant provincial guidelines.

Reporting personal information to the Credit Bureau about a former recipient with an overpayment is not part of the overpayment recovery process and the overpayment does not include interest on the overdue amount.

The Canada Revenue Agency (CRA) Refund Set-off (RSO) Program

The CRA RSO Program intercepts personal income tax refunds on behalf of the province and applies them against outstanding debts that the province has been unable to collect.

Overpayment debt that may be referred to the CRA RSO

The CRA RSO Program only applies to provincial Crown debt. This means that it only applies to those delivery partners whose overpayment debts have been formally deemed or declared by the Director of Ontario Works to be debt due to the Crown.

The Director of Ontario Works has deemed debts of the City of Toronto as Crown debt as of May 2013 and declared the inactive debt of municipal delivery partners as Crown debt if the case was terminated on or after the dates set out in Schedule 1 of this Directive.

Delivery partners will begin referring new inactive overpayments to the ministry for collection for clients who terminated on or after the respective dates set out in Schedule 1. This includes all pre-existing overpayments on their file.

Only debts that meet the criteria for referral to the ministry (as set out in the section of this Directive titled: **Overpayments on Inactive Cases – Referral of Overpayment Recovery to the Ministry**) will be accepted for collection by the ministry.

Historical debts, which are overpayments owed by former Ontario Works clients whose Ontario Works case was terminated before the respective dates set out in Schedule 1, are not eligible for referral at this time and remain owed to, and collectible by, the municipality or DSSAB. Collection should continue to be pursued based on local collection processes.

Also, effective from the dates set out in Schedule 1, all new Ontario Works overpayments (active and inactive), will be debts owed to the Crown in right of Ontario.

Ontario Works offices are expected to continue the collection of active overpayments as per current business processes. New business processes have been developed to support the referral of new inactive overpayments to the ministry for collection.

Overpayment debt that is NOT referable to the CRA RSO

Overpayments that have not been formally deemed or declared by the Director to be debts due to the Crown in right of Ontario are not eligible for the CRA RSO Program.

Note: The following overpayments are ineligible for referral to the CRA RSO Program and may be recommended for write off where the case is inactive (for more information, please see the Administrative write-off process section):

- overpayments incurred under the *General Welfare Assistance (GWA) Act*
 - as these overpayments are not debt due to the Crown, they should not be referred to the CRA RSO Program under any circumstances (including overpayments incurred under the GWA Act by persons who were subsequently granted Ontario Works or ODSP), and may be recommended for write off after local collection efforts have been made
- any overpayment under the *Family Benefits Act (FBA)* where the person has never been in receipt of Ontario Works or ODSP and did not have the right to appeal the overpayment decision
 - these overpayments are only collectible if the person returns to social assistance and receives notice of the right to appeal.

Returning recipients

When a former social assistance recipient returns to Ontario Works, the delivery agent or delivery partner should review the file to determine whether there are any outstanding overpayments that are subject to recovery, including past Social Benefits Tribunal (SBT) decisions and previously written off overpayments (for more information, please see the Administrative write-off process section).

The delivery agent or delivery partner must advise the recipient in writing (and spouse, if applicable) that the outstanding overpayment is being recovered.

If a case with an outstanding overpayment is being granted assistance retroactively, the retroactive payment (or arrears) must be applied to recovery of the overpayment,

subject to the factors outlined in the section on Applying Arrears to an Overpayment, as may be applicable.

Temporarily uncollectible overpayments

Under certain circumstances, overpayment recovery may be suspended and the overpayment deemed temporarily uncollectible for a period of time. Examples of valid reasons for suspending overpayment recovery include situations where:

- the overpayment balance on an active case is \$2.50 or less and the overpayment has not yet been recommended for write off (for more information, please see the Recovery of overpayments section)
- recovery of the overpayment would result in undue hardship (for more information, please see the Overpayments on active cases section)
- the recipient's only income is the personal needs allowance, or where recovery would result in the recipient's monthly income from all sources to fall below the amount of the personal needs allowance (for more information, please see the Overpayments on active cases section)
- financial assistance is being deducted and applied to a Support Deduction Notice (SDN) and the amount deducted for the SDN equals 10% of the recipient's budgetary requirements (the prescribed maximum) (for more information, please see the Overpayments on active cases section)
- the overpayment is on an inactive Temporary Care Assistance (TCA) case and the adult caregiver is a member of an active social assistance benefit unit (for more information, please see the Temporary Care Assistance overpayments section)
- the overpayment is on an inactive "dependent of dependent" case and the dependent parent is a member of an active social assistance benefit unit (for more information, please see the "Dependent of dependent" overpayments section)
- the overpayment is pending the outcome of bankruptcy proceedings, unless the court has granted permission for recovery to continue (for more information, please see the Bankruptcy section)
- the case is under criminal investigation/court proceedings for fraud and protocol with local authority requires that overpayment recovery be suspended until the

outcome of the investigation/court proceedings is known (for more information, please see the Cases of alleged fraud section)

- the overpayment is pending the outcome of a Consumer Proposal (for more information, please see the Negotiated settlements to defer collection activity on inactive cases section)
- the overpayment is under internal review
- the overpayment is under appeal and the Social Benefits Tribunal (SBT) has ordered Interim Assistance to be paid to the recipient

Caseworkers should set a reasonable review date (for example, one month, three months, and so on) for these overpayments on a case-by-case basis according to the circumstances. At the review, a decision should be made on the appropriate status of the overpayment (for example, begin collection, maintain as temporarily uncollectible, recommend for write off per the write off criteria in this directive, and so on), and should provide written notice of the decision to the recipient (and spouse, if applicable).

Temporary care assistance overpayments

An overpayment on an active Temporary Care Assistance (TCA) case may only be recovered from the TCA benefit unit.

If a TCA benefit unit terminates from assistance, any outstanding overpayments may be recovered from the adult caregiver (meaning, the recipient) according to regular recovery procedures for inactive Ontario Works cases. If the adult caregiver is a member of an active Ontario Works or ODSP benefit unit, the Administrator should suspend recovery until the caregiver terminates from social assistance (for more information, please see the Temporarily uncollectible overpayments section). Financial assistance for the adult caregiver's benefit unit cannot be deducted to repay the TCA overpayment.

"Dependent of dependent" overpayments

An overpayment may be established where a dependent parent received an amount for his/her dependent child which they were not eligible to receive (see Directive 6.1: Calculating assistance (<https://www.ontario.ca/document/ontario-works-policy-directives/61-calculating-assistance>) for more information). The overpayment may only be recovered from the dependent of dependent's benefit unit.

If the dependent of dependent case terminates from assistance, any outstanding overpayments belonging to the benefit unit may be recovered from the dependent parent (meaning, the recipient) according to regular recovery procedures for inactive Ontario Works cases. If the dependent parent is a member of an active Ontario Works or ODSP benefit unit, the Administrator should suspend recovery until the dependent parent terminates from social assistance (for more information, please see the Temporarily uncollectible overpayments section). Financial assistance for the benefit unit to which the dependent parent belongs cannot be deducted to repay the overpayment on the dependent of dependent case.

Bankruptcy

If a recipient or former recipient with an outstanding overpayment files for bankruptcy, no action can be taken against that person (the debtor) or their property until the person has been discharged from the bankruptcy. In such cases, overpayment recovery should be suspended and the overpayment should be deemed temporarily uncollectible once the delivery agent is notified of the filing of bankruptcy unless the court has granted permission to the delivery agent to continue recovery during the bankruptcy proceedings (for more information, please see the Temporarily uncollectible overpayments section).

The dividend paid, if any, after the notice of discharge is received should be accepted as full settlement of the overpayment and the balance of the overpayment should be recommended for write off.

Surviving bankruptcy

An overpayment survives bankruptcy and remains recoverable only where there is a criminal or civil court decision that the overpayment was incurred by fraud (meaning, a fraud conviction).

Cases of alleged fraud

Eligibility investigations on active or inactive cases, which result in an overpayment, may or may not be pursued for fraud.

Where an overpayment has been established and the case will not be referred to police for fraud investigation, the recipient/former recipient should be advised of the reason for the overpayment amount, and appropriate collection efforts should begin.

Where a case has been referred for police investigation/court proceedings for fraud, the collection of the overpayment can proceed in accordance with regular recovery procedures. However, if there is an agreement with local authorities for overpayment collection to be suspended until the outcome of the investigation/court proceedings is known, overpayment recovery should be suspended (for more information, please see the Temporarily uncollectible overpayments section).

Acquittals

If a recipient/former recipient is acquitted without a finding by the court on the merits of the case, the overpayment should be considered collectible and recovered in accordance with regular recovery procedures.

In cases where the recipient/former recipient is acquitted and the finding of the court is that fraud has not been proven, there must be a careful review of the circumstances. An overpayment may still be recovered notwithstanding the acquittal on a fraud charge if the recipient/former recipient received assistance in excess of the amount they were eligible to receive.

Criminal convictions

In cases where a recipient/former recipient is convicted of fraud, if the overpayment amount originally calculated is more than the amount confirmed by the findings of fact by the court, the difference should be recommended for write off.

If negotiations have occurred between the accused (either personally or through his/her defence counsel) and the Crown Attorney, they must be taken into account to determine whether or not, and how much of the overpayment should be recovered. If the Crown Attorney agreed not to pursue recovery in exchange for a guilty plea, or at the time of sentencing indicated no recovery would be pursued, it would not be appropriate to proceed with an overpayment recovery. In this case, the balance of the overpayment should be recommended for write off (for more information, please see the Administrative write-off process section).

Restitution orders

In cases where a recipient/former recipient is convicted of fraud and the Court has ordered restitution for all or part of the overpayment in question, the delivery agent or

delivery partner specified in the restitution order is responsible for monitoring compliance with the terms of the restitution order.

If a recipient is not making payments per the terms of the restitution order, the delivery agent or delivery partner may deduct a portion of the recipient's financial assistance to recover the overpayment amount subject to the restitution order as provided under section 20 of the *Ontario Works Act, 1997*.

An overpayment amount subject to a restitution order is not portable between the delivery agent or delivery partner and programs and should not be recommended for write off while the restitution order is enforceable.

In cases where there is a fraud conviction and no restitution is ordered, or where the restitution order covers only a portion of the overpayment, the overpayment amount that is not subject to a restitution order is considered to be collectible (unless the Crown Attorney has agreed not to pursue that amount). The delivery agent or delivery partner should make a determination as to the appropriate method for dealing with these overpayments, in accordance with regular recovery procedures.

Administrative errors

Overpayments may, at times, result from administrative errors such as miscalculations, a delay or failure to act on information.

When a recipient provides information that would reduce the amount of financial assistance they receive, every effort must be made to promptly act to reduce the amount of financial assistance in order to prevent an overpayment. If the information is not processed and the recipient receives an amount they know to be incorrect, the onus is on the recipient to notify Ontario Works staff of this error. These overpayments are recoverable. The overpayment should be properly documented on the file and action taken to avoid recurrence of the problem.

In extenuating circumstances, an overpayment resulting from an administrative error may be recommended for write off (see below for more information on the write off process). For example, if a change(s) to a recipient's financial assistance is not made even after notification of an error in distribution of assistance and the recipient has done everything possible to notify Ontario Works or ministry staff (meaning, there is documented evidence that the recipient had advised staff of the error), an overpayment may not be recovered.

Negotiated settlements to defer collection activity on inactive cases

If all reasonable efforts have been made to collect an overpayment in full, and the former recipient indicates a willingness to enter into a repayment plan for the total or partial repayment of the outstanding overpayment, the delivery agent or delivery partner may negotiate a reasonable settlement, subject to local approval.

As part of any repayment plan, the Administrator should include a specific term whereby the individual consents to the plan being reviewed in the future and consents to the overpayment being collectible should, in the opinion of the Administrator, the individual's financial circumstances improve. Letters outlining the proposed settlement, and details and acceptance of the terms are to be kept on file.

Where an individual submits a Consumer Proposal to the delivery agent or delivery partner, recovery should be suspended until a decision is made on the Consumer Proposal (for more information, please see the Temporarily uncollectible overpayments section).

In accordance with the terms of the settlement, the balance of the overpayment may be recommended for write off (see below for more information on the write off process).

The administrative write-off process

Following reasonable collection efforts, an overpayment may be considered uncollectible and may be recommended for write off by the Administrator.

The recommended write off of an overpayment is subject to local delivery partner approval and should be completed each fiscal year. The process of writing off overpayment debts is administrative only and does not mean that the debt is forgiven, and a recipient should not be advised that the overpayment has been forgiven or that an administrative write off has taken place.

There are two categories of overpayments that may be recommended for write off:

1. Uncollectible overpayments
2. Overpayments where collection efforts have not resulted in recovery (inactive cases only).

1. Uncollectible overpayments

Overpayments that are uncollectible may be recommended for write off annually where:

1. the former recipient has been deported
2. there is insufficient documentation to substantiate the overpayment (for more information, please see the Establishing an overpayment section)
3. the overpayment balance is \$2.50 or less (for more information, please see the Recovery of overpayments section)
4. the former recipient is deceased and there is no estate, and where applicable (meaning, where the overpayment section applies only to those delivery partners whose overpayment debts have been formally deemed or declared by the Director of Ontario Works to be debt due to the Crown), the overpayment debt has been with the Canada Revenue Agency Refund Set-off (CRA RSO) Program for two full taxation years (for more information, please see the Canada Revenue Agency Refund Set-off Program section)
5. the overpayment on an inactive case is not eligible for the CRA RSO Program, and local collection efforts have not produced results (meaning, overpayments incurred under the *General Welfare Act*, and overpayments incurred under the *Family Benefits Act* where the person has never been in receipt of Ontario Works or ODSP and has not received notice of the right to appeal; for more information, please see the Canada Revenue Agency Refund Set-off Program section)
6. the recipient or former recipient has had their overpayment debt discharged in a bankruptcy proceeding:
 - the dividend paid, if any, after the notice of discharge is received should be accepted as full settlement of the overpayment and the balance of the overpayment should be recommended for write off (except where there is a criminal or court decision that the overpayment was a result of fraud or misrepresentation; for more information, please see the Bankruptcy section)
7. there has been a court decision of fraud or misrepresentation:
 - if the overpayment amount originally calculated is greater than the amount confirmed by the findings of the court, the difference, or the amount the

Crown Attorney agreed not to pursue, should be recommended for write off (for more information, please see the Criminal convictions section)

8. the overpayment was established due to an administrative error, and there is an extenuating circumstance (meaning, there is evidence that the recipient had advised staff of the error, for more information, please see the Administrative errors section)
9. the delivery agent or delivery partner has negotiated a reasonable settlement
 - the balance of the overpayment should be recommended for write off (for more information, please see the Negotiated settlements to defer collection activity on inactive cases section)
10. the Social Benefits Tribunal (SBT) made a final decision, ordering that an overpayment not be recovered (for more information, please see the Jurisdiction of the Social Benefits Tribunal section).

2. Overpayments where collection efforts have not resulted in recovery (inactive cases only)

Overpayments on inactive cases may be recommended for write off based on their age (date of termination of the case or last voluntary payment) and the amount outstanding, after collection efforts outlined below have been made.

- Overpayments that are less than \$20 and at least 120 days old may be recommended for write off once all collection efforts have been made, including the issuance of the Outstanding Overpayment Balance Letter on the date the overpayment was established
- Overpayments that are between \$20 and \$499 and at least 3 years old may be recommended for write off once the Ontario Works Administrator has taken the following collection activities:
 - Outstanding Overpayment Balance Letter has been issued twice - on the date the overpayment was established and again after 30 days
 - where applicable, the overpayment has been submitted to the CRA RSO Program for collection but has not resulted in material recovery for at least two full annual taxation cycles
- Overpayments that are over \$500 and at least five years old may be recommended for write off once the Ontario Works Administrator has made

reasonable collection efforts, including:

- timely invoicing and statements issuance (for example, minimum two letters in each of the five years)
- direct verbal contact has been attempted (for example, minimum three calls in each of the five years)
- delinquency notices have been issued (for example, minimum two letters explaining possible referral to collection agency and/or possible legal action in each of the five years)
- where appropriate (meaning, in accordance with delivery agent debt collection policies and procedures), specialized collection activities (for example, Private Collection Agency) and legal action (for example, Small Claims Court) have been taken.

Table: Treatment of overpayments where collection efforts have not resulted in recovery (inactive cases)

Amount	Age of overpayment <120 days	Age of overpayment 120 days to <3 years	Age of overpayment 3 years to <5 years	Age of overpayment 5 years or greater>
<\$20	Collect	Write off		
Between \$20 and \$499	Collect	Collect	Write off	
> \$500	Collect	Collect	Collect	Write off

Note: for overpayments eligible for CRA RSO Program see below

- Overpayments that are eligible for the CRA RSO Program (for more information, please see the CRA RSO Program section) may be recommended for write off in accordance with the above table with the following exceptions:
- Debts between \$500 and \$25,000 and more than 5 years old must have been submitted to the CRA RSO Program for collection without successful recovery for at least two full annual taxation cycles.
- Debts greater than \$25,000 must be resubmitted to the CRA RSO Program after five years before being recommended for write off.

Reactivation of recovery of previously written off overpayments

In cases where an overpayment was previously written off and the Administrator determines that opportunities to recover amounts owed have improved, then the Administrator should initiate efforts to collect the written off overpayment except in the following cases:

- there is insufficient documentation to substantiate the overpayment (for more information, please see the Establishing an overpayment section)
- the overpayment was written off because the balance was \$2.50 or less (for more information, please see the Recovery of overpayments section)
- the former recipient is deceased and there is no estate
- the overpayment was discharged in a bankruptcy proceeding (for more information, please see the Bankruptcy section)
- the overpayment amount was written off as a result of court proceedings (meaning, based on findings of fact by the court or negotiations by the Crown Attorney; for more information, please see the Criminal convictions section)
- the overpayment was incurred due to an administrative error and was written off due to an extenuating circumstance (for more information, please see the Administrative errors section)
- the SBT made a final decision, ordering that the overpayment on an inactive case not be recovered (see below for more information).

Rights of appeal

Decisions regarding the correctness of an overpayment assessment and the rate of recovery of an overpayment can be appealed to the Social Benefits Tribunal (SBT). Appropriate information on the right to request an internal review and the right to appeal must be provided to the recipient (and spouse, if applicable) in writing.

Jurisdiction of the Social Benefits Tribunal

The SBT has jurisdiction with respect to a decision of the Administrator affecting eligibility for, or the amount of, financial assistance. The SBT has the same authority as the Administrator with respect to the recovery of overpayments, and as such may order that a recipient's financial assistance should not be reduced to recover an overpayment.

A decision by the SBT that an overpayment should be permanently uncollectible means that overpayment recovery should cease if the individual is currently receiving social assistance, and that their overpayment remains uncollectible if the individual leaves social assistance. Overpayments that are ordered permanently uncollectible by the SBT should be recommended for write-off (for more information, please see the Administrative write off process section).

Transferring overpayments

Overpayments are portable, which means that an overpayment incurred under Ontario Works, ODSP, the *General Welfare Assistance (GWA) Act* or the *Family Benefits Act (FBA)* remains collectible if the recipient or dependent spouse moves between programs or delivery partners (see Directive 9.6: Overpayment transfer (<https://www.ontario.ca/document/ontario-works-policy-directives/96-overpayment-transfer>) and Directive 9.5: Sharing of overpayments between spouses (<https://www.ontario.ca/document/ontario-works-policy-directives/95-sharing-overpayments-between-spouses>) for more information).

Where an overpayment is under appeal and the recipient has moved to another delivery partner or program, the overpayment under appeal should not be transferred and activated for recovery until the appeal is resolved. If an overpayment incurred at another office is already transferred to a new office and the recipient subsequently appeals, the receiving office is responsible for this appeal. It may be necessary to work with the office where the overpayment was originally established.

Monitoring and accountability

The delivery agent or delivery partner is accountable for all debts and is responsible for retaining documentation for substantiating the debt. Internal delivery agent or delivery partner procedures for the collection of overpayments must comply with any and all applicable ministry policies and practices. Records and archives may be requested by the ministry for review.

Other impacting legislation

Limitations Act, 2002

The *Limitations Act, 2002*, allows for any debts owed to a municipality or the province related to the provision of social assistance, health and economic programs not to be subject to a limitation period; therefore, the municipal delivery partner or the province never loses the ability to pursue a claim for payment as a result of time elapsing.

Collection Agencies Act

Any agreements negotiated with a private collection agency must comply with the provisions of the *Collection Agencies Act* and with municipal procurement policies and any other applicable municipal policies and practices.

Schedule 1 – Referral of inactive overpayments to the ministry for collection

Inactive debt (overpayments) of municipal delivery partners is to be referred to the ministry for collection if the case was terminated on or after the dates set out in the table below.

Also, effective from the below dates, all new Ontario Works overpayments (active and inactive) of delivery partners will be debts owed to the Crown in Right of Ontario.

As of May 2013:

- Deemed debts from the City of Toronto
Note: for the City of Toronto, debt was deemed to be Crown debt as of May 2013.

On or after October 1, 2024:

- City of Brantford
- City of Hamilton