

But It's Unfair! Tips on Overpayments

An Overpayment? But it was the county's mistake!

If it will be hard for you to pay back the money, ask for a state fair hearing. You have 90 days from the date on your notice of CalWORKs overpayment (or 180 days if you have a good reason for being late) to ask for a hearing. Argue you should not have to pay back the cash aid because it was not your fault. (This does not apply to overpaid CalFresh ("food stamps") benefits, also called "overissuances.")

But my worker says it's the law that I repay!

The worker cannot cancel the overpayment, but an Administrative Law Judge (ALJ) can. That's why you must ask for a hearing if you want to challenge the overpayment.

What do I do at the hearing?

You need to make an "unfairness" argument. In legal terms, it is called "equitable estoppel." This means that basic fairness should stop the county from asking you to repay the overpayment. To win, you **must show all of these five facts**:

1. The county had all the information it needed to make the right calculation of your monthly benefits.
2. The county made a mistake.
3. You did not know about the county's mistake, and thought the aid you got was the right amount.
4. You depended on the county to pay you the right amount of benefits **and** you cannot pay back the overpayments.
5. Your hardship in having to repay is greater than the county's interest in getting the money back. (The administrative law judge (ALJ) will look at the amount of the overpayment and how long the county's mistake lasted.)

Example: Gina started work, and reported her earnings, but her aid did not change. She called her worker, who told her the aid payment was right because of the income deductions Gina gets. Gina used the extra money to buy school clothes and supplies for her children. Four months later, Gina gets a notice of a \$500 overpayment. Gina argues that the worker knew of her earnings, did not change her benefits, and told Gina the higher benefits were right. Gina cannot afford to pay the overpayment back because her entire check and earnings go to rent, utilities and food. She brings her monthly expense budget to the hearing.