

Salary - Recovery of Overpayments for NSW Health Service Employees

Document Number PD2009_015

Publication date 01-Apr-2009

Functional Sub group Personnel/Workforce - Salaries

Summary Provides for appropriate procedures for the recovery of overpayments made to staff of the NSW Health Service.

Replaces Doc. No. Salaries and Wages Overpayment for Health Service and Public Hospital Employees [PD2005_160]

Author Branch Workplace Relations and Management Branch

Branch contact Workplace Relations & Management 9391 9357

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

Audience All staff

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Health Associations Unions, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals

Review date 01-Apr-2014

File No. 08/7649

Status Active

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

RECOVERY OF OVERPAYMENTS FOR NSW HEALTH SERVICE EMPLOYEES

1. INTRODUCTION

This policy directive sets out principles for the recovery of overpayments made to staff employed in the NSW Health Service.

2. SCOPE

This policy directive applies to all staff employed in the NSW Health Service.

The Determination of Conditions of Subsidy requires (to the extent permitted by law) non-declared affiliated health organisations to comply with policy directives dealing with the terms and conditions of employment of staff employed in the NSW Health Service and to provide to staff the same conditions of employment as those set out in industrial instruments applicable to staff employed in the NSW Health Service.

3. PURPOSE

The purpose of this policy directive is to ensure that overpayments are recovered as per relevant Award provisions and in the absence of Award provisions, that overpayments are recovered in accordance with a fair and reasonable process.

4. DEFINITIONS

Employer means any person authorised to exercise the functions of the employer of staff to which this policy directive applies.

NSW Health Service consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown.

Public health system includes area health services, declared affiliated health organisations in respect of their recognised establishments or services, statutory health corporations, the Ambulance Service of NSW, Institute for Medical Education and Training, Health Support Services, Health Infrastructure and any administrative unit or division under the control of the Director-General or Health Administration Corporation in which staff of the NSW Health Service are employed.

5. ACCOUNTABILITIES

Entities within the public health system have a duty to ensure that proper procedures and controls are in place which ensure that, as far as is reasonably possible, employees receive their due entitlements to salaries and wages – no more and no less.

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Where overpayments occur, entities within the public health system and employees are obligated to correct the overpayment.

6. AWARD PROVISIONS

The following Awards contain procedures regarding the recovery of overpayments and the rectification of underpayments:

- Ambulance Service of NSW Administrative and Clerical Employees (State) Award
- Health Employees Conditions of Employment (State) Award
- Hospital Scientists (State) Award
- Public Health System Nurses' and Midwives' (State) Award
- Public Hospital Career Medical Officers (State) Award
- Public Hospital Medical Officers Award
- Public Hospital (Medical Superintendents) Award
- Public Hospital (Professional and Associated Staff) Conditions of Employment (State) Award
- Staff Specialists (State) Award

The provisions contained within these Awards are set out at [Attachment A](#).

7. GENERAL PRINCIPLES

For employees not covered by the above Awards, the following principles are to be applied when recovering overpayments:

- The employee must be given a full explanation of the cause of any overpayment and the details of the calculation of the amount involved.
- The personal circumstances of the employee must be considered and discussed with a view to reaching agreement on the quantum and timing of repayments.
- Where the employee disagrees in relation to the overpayment, either as to the facts or to the repayment plan, the employer must establish a fair and transparent process to review the situation with the employee.
- The employee is entitled to be represented by a nominated person in these matters, including their employee association.
- If the employer and the employee cannot reach agreement then the employer is obligated to seek resolution by taking such action, including

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commencing legal action, as may be appropriate to ensure recovery of the overpayment.

8. ENQUIRIES

Any enquiries regarding this policy directive should be directed to the human resource personnel in the relevant health service. Only human resource personnel in the health service are to contact the Department.

Professor Debora Picone AM
Director-General

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ATTACHMENT A

Award Provisions Regarding Overpayments and Underpayments

The following process will apply once the issue of underpayment or overpayment is substantiated.

- (i) Underpayment
 - (a) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days.
 - (b) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
- (ii) Overpayment
 - (a) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (b) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recovery rate shall be at 10% of an employee's gross fortnightly base pay.
 - (c) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (d) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (ii)(c) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (e) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (ii)(c) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.