

CIRCULAR

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CIRCULAR NUMBER: EIA #2012-35

Alternate Program(s):

To: Community Social Service Supervisors/Program Managers

Subject: Overpayment Recovery and/or Garnishment of Federal Employment Insurance (EI) and/or Canada Pension Plan Benefits

Reference: *The EIA Regulation* - Section 8(6) and Section 9(2)
EIA Manual – Section 15.5.1 Maximum Canada Pension Plan Benefits
EIA Directive 99-15 - Assignment of Employment Insurance (EI) Benefits
EIA Directive 96-25 - Assignment of Employment Insurance (EI) Benefits

Type: Policy Procedure Rate Information Only

Replaces: N/A

Effective Date: Immediately

The Employment and Income Assistance (EIA) program treats federal Employment Insurance (EI) and Canada Pension Plan-Retirement and Disability (CPP-R/D) benefit income as an unearned income source and applies it directly against overall financial eligibility. Where these monthly federal benefits exceed a participant's monthly income assistance budget, the EIA file closes. However, where ongoing federal payments are less than the total EIA budget (as set out in MUIIN), EIA provides a monthly income supplement of the difference between monthly federal payments received and the total EIA monthly budget.

Staff may encounter scenarios where an EIA participant is receiving federal benefit amounts below his/her maximum eligible weekly federal benefit. These benefit reductions can be a result of:

- an overpayment recovery applied against a participant's ongoing EI payments,
- the person having federal income taxes owing, or
- a garnishment application placed by provincial maintenance enforcement programs due to unpaid family maintenance (i.e., spousal/child support).

As set out in the EIA Regulation, a participant must make all reasonable efforts to obtain the maximum level of financial support available from alternate sources. This obligation also applies to the participant taking the necessary steps to revisit and (wherever possible) reduce any recoveries and/or garnishments that have been applied against his/her federal income support benefits.

Regardless of the nature of the federal benefit reduction, where the participant is taking active steps to reduce the overpayment recovery/garnishment, EIA staff should assess ongoing income assistance eligibility using only the actual federal income support amount being received and not the potential/full benefit they would be eligible for without the recovery until such time that the recovery is adjusted and EIA benefits are reduced or the EIA file closes. However, where it is evident that the participant has not explored any recovery/garnishment reduction options, EI benefits are to be applied against EIA eligibility at the potential/full benefit level until such time that the participant produces confirmation of engaging in recovery reduction measures.

Employment Insurance Recovery Reduction Policies/Procedures

Unless otherwise negotiated by the participant with an EI Recovery Agent, EI will automatically apply any overpayments at a rate of fifty percent of the participant's EI benefits. In the case where an EI overpayment recovery has resulted in the participant requiring (i.e., becoming financially eligible for) ongoing income assistance, EIA staff should be instructing participants to meet with an EI Recovery Agent to apply to reduce the recovery amount to the point where income assistance is no longer required.

Where EI benefits have been reduced as a result of a garnishment order due to income tax arrears, the participant should also be directed to negotiate reduced recovery rates with an EI Recovery Agent so that income assistance is no longer required, or is reduced to the greatest extent possible.

However, where the garnishment is a direct result of unpaid spousal/child support, EI has no authority to reduce these amounts as spousal/child support obligations are set out in court-ordered support agreements and fall to the enforcement of provincial maintenance enforcement programs. In these instances, staff should instruct the participant to approach the local Legal Aid office (see <http://www.legalaid.mb.ca/> for a listing of regional offices) to have the conditions of the support agreement changed to make payment obligations more reflective of the participant's current financial circumstances (i.e. variation order). Legal Aid will help link a participant with a support order from another province with Legal Aid services available in the province in which the support order was granted.

Where the court-ordered support obligation is adjusted/reduced, the participant should provide this confirmation to the EI Recovery Agent so that future EI recoveries are applied at the new, lower amounts and EIA benefits reduced (or the case closed) accordingly.

CPP – R/D Recovery Reduction Policies/Procedures.

The Canada Pension Plan Act contains a provision that prevents the reduction of CPP-R/D payments in order to collect federal benefit overpayments and/or other outstanding balances owed to the Government of Canada (e.g. income taxes, Canada student loan defaults, etc.). As a result, an individual continues to receive his/her full CPP-R/D benefit, with the Canada Revenue Agency (CRA) taking steps to recover these outstanding balances through redirection of future income tax returns, GST payments, etc.

However, the only circumstance where CPP-R/D benefits can be reduced is where a garnishment application has been made by a province to collect on outstanding family maintenance arrears. As with the EI practice, monthly CPP-R/D benefits can be garnished by up to fifty percent and cannot be adjusted by the federal government without confirmation that a maintenance variation has been granted by the courts. Staff are to follow the same procedures and monthly EIA benefit disbursement practices with a CPP-R/D participant as are indicated above for a participant receiving reduced EI.