

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:1-23-70

**Rule Type:** Amendment

**Rule Title/Tagline:** Ohio works first: erroneous payments.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Public Assistance

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#### I. Rule Summary

1. Is this a five year rule review? Yes
  - A. What is the rule's five year review date? 10/1/2024
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 5107.05, 5107.76
5. What statute(s) does the rule implement or amplify? 5107.05, 5107.76
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
  - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

Five Year Review.
8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule describes erroneous payments for the Ohio Works First program. Changes to

the rule include:

Removed regulatory restrictive words as part of Senate Bill 9;

Striking paragraph (G);

Moved (G)(2) and (G)(3) to paragraph (H)(4)(a)(b) for clarity; and

Other minor language changes to improve clarity.

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(a).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A)(2)(a).

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A)(2)(c).

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

This rule has no expected fiscal impact on current or future budgets.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

No new costs.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

### **III. Common Sense Initiative (CSI) Questions**

- 17. Was this rule filed with the Common Sense Initiative Office? No**

- 18. Does this rule have an adverse impact on business? No**

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

**A. How many new regulatory restrictions do you propose adding to this rule? 0**

**B. How many existing regulatory restrictions do you propose removing from this rule? 23**

5101:1-23-70 (C) All cash assistance under the former aid to families with dependent children (ADC) or TANF programs and/or OWF erroneous payments that occurred on or after July 1, 1998, or that occurred prior to July 1, 1998, but were discovered on or after July 1, 1998, shall be collected in accordance with the provisions set forth in this rule.

5101:1-23-70 (E) Are agency-caused overpayments that occurred prior to October 1, 1997 and that are discovered on or after July 1, 1998 required to be collected?

5101:1-23-70 (F)(4) When the assistance group has a change, and the change results in the decrease in or termination of OWF cash assistance, the county agency shall is to issue a notice of adverse action within ten days of the date the change was reported or the county agency becomes aware of the change,

5101:1-23-70 (G)(1) When a notice of adverse action is issued, the decrease in the benefit level shall be made effective with the OWF benefit for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

5101:1-23-70 (G)(2) When a notice of adverse action is not issued due to one of the exceptions of rule 5101:6-2-05 of the Administrative Code, the decrease shall be made effective no later than the month following the change.

5101:1-23-70 (H)(1) When the county agency discovers that the assistance group failed to report a required change within the required timeframes as set forth in rule 5101:1-2-20 of the Administrative Code and as a result of the change, the assistance group received benefits it was not entitled to receive;

5101:1-23-70 (I) The amount of the erroneous payment is the difference between the amount of benefits the assistance group should have received for

a calendar month, and the amount of benefits the assistance group actually received for that month. In determining the amount of an erroneous payment, the agency shall consider the federal Fair Labor Standards Act (FLSA) (6/2012) applicable requirements and/or any other federal labor laws which may apply.

5101:1-23-70 (I) When the county agency becomes aware of a change in the assistance group's circumstances, the county agency shall determine the following:

5101:1-23-70 (I)(4)(a) When the assistance group has earned income, the earned income disregards set forth in rule 5101:1-23-20 of the Administrative Code, shall be deducted as appropriate in computing the amount of the erroneous payment.

5101:1-23-70 (I)(4)(b) For any month that the assistance group failed to timely report a change in earned income as set forth in rule 5101:1-2-20 of the Administrative Code, the earned income disregards shall not be deducted from the assistance group's gross earned income in accordance with rule 5101:1-23-20 of the Administrative Code when computing the erroneous payment.

5101:1-23-70 (I)(4)(d) Child support that is assigned to the Ohio department of job and family services (ODJFS) and which is paid through the child support enforcement agency (CSEA) shall be included in the calculation of the erroneous payment.

5101:1-23-70 (I)(4)(d) The county agency shall determine the exact amounts of the following categories prior to computing the erroneous payment:

5101:1-23-70 (I)(4)(d)(iv) Correct amount of OWF benefits the assistance group should have received. For purposes of this rule only, this amount shall be referred to as the OWF entitlement.

5101:1-23-70 (J)(1) The monthly recovery amount shall be computed from the income and assistance payment available in the payment month. Liquid assets may be explored as well.

5101:1-23-70 (J)(4) All grant reductions shall be effected with due regard for the fair hearing provisions, including prior notice, set forth in division 5101:6 of the Administrative Code.

5101:1-23-70 (J)(5) If the assistance group becomes ineligible to participate in OWF, the balance of the erroneous payment shall be recovered in accordance with the provisions set forth in section 5107.76 of the Revised Code.

5101:1-23-70 (K)(1) All proposed actions shall be suspended pending the hearing decision.

5101:1-23-70 (K)(2) In a situation in which the underpayment amount is greater than the amount of the erroneous payment, the assistance group shall be issued the difference.

5101:1-23-70 (L) As set forth in section 5107.76 of the Revised Code, if a minor child was a member of an assistance group that received an erroneous payment but becomes a member of a new assistance group that does not include a minor head of household or adult who also was a member of the previous assistance group, a county agency shall not take action against the new assistance group to recover the erroneous payment the previous assistance group received.

5101:1-23-70 (M)(2) All support orders established or modified on or after December 1, 1986, shall be paid through the CSEA.

5101:1-23-70 (G)(2) Notwithstanding the requirements in rule 5101:1-2-20 of the Administrative Code, the assistance group is not required to report any other changes in circumstances until the next reapplication.

5101:1-23-70 (H)(1) When the county agency discovers that the assistance group failed to report a required change within the required timeframes as set forth in rule 5101:1-2-20 of the Administrative Code and as a result of the change, the assistance group received benefits it was not entitled to receive;

5101:1-23-70 (H)(4) The assistance group is not liable for an erroneous payment because of a failure to report a change that is not a part of the required reporting requirements as set forth in rule 5101:1-2-20 of the Administrative Code.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

