

Salaries - Recovery of Overpayments for NSW Health Service Employees

Summary This Policy Directive references the specific provisions in industrial awards for dealing with overpayments and underpayments of salaries. It also provides direction for dealing with overpayments where there are no relevant award provisions.

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Distributed to Ministry of Health, Public Health System, NSW Ambulance Service, Health Associations Unions

Audience All Staff of NSW Health

Salaries – Recovery of Overpayments for NSW Health Service Employees

POLICY STATEMENT

NSW Health aims 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.

SUMMARY OF POLICY REQUIREMENTS

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.

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

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.

1. Specific Award Provisions

There are specific provisions for the recovery of overpayments and the rectification of underpayments are contained in the following Awards:

- *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 in Section 3 Award Provisions Regarding Overpayments and Underpayments.

2. General Principles

For employees not covered by the Awards in Section 1 Specific Award Provisions, 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 commencing legal action, as may be appropriate to ensure recovery of the overpayment.

3. Award Provisions Regarding Overpayments and Underpayments

The following process will apply to employees covered by the Awards in Section 1 Specific Award Provisions 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.

REVISION HISTORY

Version	Approved By	Amendment Notes
PD2023_020 August-2023	Deputy Secretary, People Culture and Governance	Reissuing of policy directive to clarify the organisations to which the policy applies. Minimal changes to comply with new proforma requirements.
PD2019_009 February-2019	Director-General	Minimal changes to comply with new proforma requirements.
PD2009_015 April-2009	Director-General	Inclusion of specific award provisions.
PD2005_160 January-2005	Director-General	Minimal changes to comply with new proforma requirements.
Circular 99/85	Director-General	N/A