



MEMORANDUM
OFFICE OF THE
AUDITOR-CONTROLLER
COUNTY OF PLACER

TO: Honorable Board of Supervisors **DATE:** January 12, 2021

FROM: Andrew C. Sisk, Auditor-Controller

SUBJECT: Overpayment and Underpayment of Wages or Benefit Premiums Policy Update

Action Requested/Recommendation

Approve updates to the County's Overpayment and Underpayment of Wages or Benefit Premiums Policy Update.

Background

This request is to approve updates to the County's existing policy for the Overpayment and Underpayment of Wages or Benefit Premiums. The purpose of the policy is to provide guidelines for the identifying, processing, and resolving the overpayment or underpayment of employee wages or benefit premiums.

The purpose of this update is to define "wages" as base salary, special compensation, premium pays, paid time off and any other compensation that could be paid through payroll.

This policy update was approved by the PAM Committee and is supported by the County Auditor-Controller's Office and County Executive Office.

Fiscal Impact

There is no impact to the General Fund.

Attachment:

Attachment A – Overpayment and Underpayment of Wages or Benefit Premiums Policy

Cc: Kate Sampson, Director of Human Resources

Overpayment and Underpayment of Wages or Benefit Premiums Policy



1.0 PURPOSE

This Policy shall establish written guidelines on identifying, processing and resolving the overpayment or underpayment of employee wages or benefit premiums. It should be read and applied with the understanding that the County, as a public entity, is constitutionally allowed to pay only those wages authorized by law and that any overpayment of wages or benefits not authorized by law would be considered a gift of public funds. For purposes of this policy, "wages" are defined as base salary, special compensation, premium pays, paid time off and any other compensation that could be paid through payroll. This Policy shall formally establish that: (1) it is the responsibility of all County employees to ensure that the payment of employee wages or benefit premiums is accurate; (2) all employees shall work to avoid mistakes in the payment of wages and benefit premiums; (3) when mistakes in the payment of wages or benefit premiums are discovered, the employee shall notify his/her supervisor or will be notified and the mistake shall be immediately corrected to avoid the compounding of the mistake, and applying the correction to the beginning of the pay period following the correction date; (4) all involved employees shall work to rectify the mistake going back no more than three (3) years from the discovery of the mistake; and (5), the County shall be flexible in formulating employee repayment plans to reimburse the County for the overpayment of wages, but repayment plans shall be no longer than three (3) years. The underpayment of benefit premiums shall be treated separately as outlined in this policy.

2.0 POLICY

The County shall accurately pay employee wages or benefit premiums. All employees shall review each paycheck upon receipt to ensure the correct amount in payment of wages or benefit premiums has been made. If an overpayment or underpayment of wages or benefit premiums is discovered, the mistake shall be immediately corrected and the following actions taken:

- a. The County will seek from the employee, reimbursement of the amount of overpayment of wages or underpayment of benefit premiums as described in this policy.
- b. The County will pay the employee the underpayment of wages as described in this policy.
- c. The County and employee shall agree to a written repayment plan for the overpayment of wages, which may include future payroll deductions.
- d. The County shall work with the employee on a reasonable repayment schedule for benefit premiums. However, the County will use payroll deductions where available to accomplish the repayment in the most expeditious manner possible.
- e. Within its discretion, the County shall be flexible in formulating employee repayment plans for the overpayment of wages or underpayment of benefit premiums to limit unreasonable hardship on the employee, but repayment plans for overpayment of wages shall be no longer than three (3) years. Benefit premium repayments shall typically be repaid in the same amount of time the deductions were taken, unless other payment arrangements are made.

- f. Any dispute between the County and the employee regarding the repayment plan shall be referred to County Counsel for review.

3.0 RESPONSIBILITIES

a. Employees

Employees are responsible for:

1. Understanding their compensation package as it applies to their specific position (including any changes in compensation resulting from a job or assignment change such as a promotion, demotion or transfer) and ensuring that they continue to meet eligibility requirements for any compensation that they receive;
2. Reviewing the accuracy of their paychecks and direct deposit records;
3. Reporting any discrepancies to their supervisor, their departmental personnel representative, the Human Resources Department and/or the Payroll Division of the Auditor-Controller's Office;
4. Ensuring the home address, contact information and work location in the Enterprise Resource Planning System (ERP) is current and accurate;
5. Alerting the Human Resources Department of any life status changes (i.e. marriage, divorce, birth, adoption, death) and;
6. Reimbursement of the overpayment of wages pursuant to an agreed upon repayment plan with the County that repays the amount owed in a reasonable amount of time, but which shall be no longer than three (3) years from the discovery date of the discrepancy.

b. County Departments

The Department is responsible for:

1. Accurately initiating and completing the business process(es) for HR transactions and compensation in the ERP system in a timely and accurate manner;
2. Accurately verifying the employee's eligibility for any compensation (base rate, step placement, allowance plans, one-time payment plans, etc.) in accordance with County Code, contracts or Memoranda of Understanding (MOU) and providing supporting documentation and/or certifying that the employee is eligible for the compensation;
3. Conducting periodic verification of all additional compensation to ensure compensation is in compliance with County Code, contracts or MOUs including the requirement to remove the pay when the employee is no longer eligible;
4. Identifying overpayments or underpayments which have been made to the employee and promptly notifying the employee and the Human Resources Department, and;
5. Ensuring that the employee home address, contact information and work location in the ERP system is current and accurate.

c. The Human Resources Department

The Human Resources Department is responsible for:

1. Accurately initiating benefit enrollment and personnel transactions (where applicable) in the ERP system and the MyCalPERS system;
2. Assisting Departments in conducting periodic verification of all compensation to ensure pay is received in compliance with County Code, contracts or MOUs;
3. Reviewing for accuracy the Department's determination of the employee's eligibility for any compensation in accordance with County Code, contracts or MOUs;

4. Reviewing and approving all compensation related to personnel transactions. For assignment pays that do not involve a certification or another way to verify that an employee should receive the assignment pay, the HR Department will periodically review the Department's certification that the employee is indeed entitled to the assignment pay (i.e., Canine Pay.);
5. Conducting periodic reviews to verify all additional compensation is received in compliance with, County Code, contracts and MOUs;
6. Identifying overpayments or underpayments which have been made to the employee and promptly notifying the Payroll Division of the Auditor-Controller's Office, the Department and the employee;
7. Working with the Payroll Division of the Auditor-Controller's Office to determine the gross and net amount of overpayments or underpayments.

d. The Auditor-Controller's Office, Payroll Division

The Payroll Division is responsible for:

1. Periodic reviews of all compensation practices;
2. Identifying overpayments or underpayments which have been made to the employee and promptly notifying the employee, the Department and the Human Resources Department;
3. Calculating and/or confirming the gross and net amount of overpayment or underpayment for up to three (3) years prior to the discovery of the overpayment or underpayment;
4. Managing the repayment process once the employee has agreed in writing to a repayment plan for the overpayment of wages;
5. Managing the receipt of funds in compliance with accepted fiscal practices, and;
6. Completing and mailing a W-2C, if applicable.

4.0 REIMBURSEMENT PROCESS

a. IRS Code.

Internal Revenue Service Ruling 70-177, 1970-1CB214 states that erroneous wage payments are subject to income tax at the time they are paid and, to the extent there has been no repayment of any overpaid amount to the employee within the same year, Form W-2 must reflect the full amount received by the employee in that year.

b. Amount to Be Recovered.

The amount of an overpayment of wages to be recovered from the employee is the gross amount of the overpayment unless the overpayment was made in the current year and is repaid in the current year. If this is the case, the amount is the net amount of the overpayment received by the employee as wages. The amount of an underpayment of benefit premiums to be recovered from the employee is the gross amount of the premiums. Consideration shall also be given to allow employees to deduct accrued leave balances (with the exception of sick leave) for purposes of repayment. A one-time only leave adjustment equivalent to at least half of the dollar amount of overpayment shall be processed pursuant to IRS regulations. A charge against future accruals shall not be permitted.

c. Process for Overpayment of Wages

When it has been determined that there has been an overpayment of wages to an employee, the Human Resources Department will work with the Payroll Division of the Auditor-Controller's Office to first determine the amount due. The Payroll Division will then notify the employee in writing of the overpayment or underpayment of wages and give the employee ten (10) business days to review and respond. The Department Head shall also be alerted of the overpayment.

The notification shall include:

1. The amount of the overpayment;
2. The pay period(s) involved;
3. The reason for the overpayment of wages;
4. The time for which the employee must respond (ten (10) business days);
5. The proposed repayment options (payroll deduction or lump sum payment via personal check);
6. An unsigned Employee Authorization for Repayment.

The employee shall respond in writing within ten (10) business days from the date of the notification as to which repayment option they choose. The employee shall select a method of repayment by returning the Employee Authorization for Repayment with his or her signature.

If the employee disputes the determination of an overpayment of wages, the employee shall state in writing the basis for the dispute. The Payroll Division of the Auditor-Controller's Office will review the employee's dispute and respond in writing to the employee within ten (10) business days as to the original determination of overpayment of wages.

If it is determined that the original finding of an overpayment of wages is accurate, the employee will have ten (10) business days from the Payroll Division of the Auditor-Controller's Office's response to provide a signed Employee Authorization for Repayment. If the employee does not provide the Employee Authorization for Repayment, the overpayment of wages will be referred to the Revenue Services Division for collection.

Once an overpayment of wages account is referred to the Revenue Services Division, a written notice will be sent by Revenue Services to the employee upon receipt of the referral informing the employee that all subsequent payments and repayment plans will be administered through the Revenue Services Division or its authorized third-party collection agency.

The employee shall respond to the Revenue Services Division within ten (10) business days of receipt of the notice. At that time the employee shall satisfy their balance in full or provide the collection agent with a completed financial evaluation form in order to establish an appropriate repayment plan. If the employee does not contact the Revenue Services Division or meet the financial obligations of their repayment plan, the overpayment of wages account will be referred to the Revenue Services Division's authorized third-party collection agency.

d. Process for Underpayment of Wages

When it has been determined that there has been an underpayment of wages to an employee, the Human Resources Department will work with the Payroll Division of the Auditor-Controller's Office to first determine the amount due. The Payroll Division will then notify the employee. The notification shall include:

1. The amount of the underpayment;
2. The pay period(s) involved;
3. The reason for the underpayment of wages;
4. The pay period the employee shall receive reimbursement of the underpayment.

e. Process for Under or Overpayment of Benefit Premiums

When it has been determined that there has been an under/overpayment of benefit premiums by an employee, the Human Resources Department will work with the Payroll Division of the Auditor-Controller's Office to determine the amount owed or due to the employee and will notify the employee and the Department of the under/overpayment via email. The notification shall include:

1. The amount of the under/overpayment;
2. The pay period(s) involved;
3. The reason for the under/overpayment of benefit premiums.

In the case of an employee who has overpaid for benefits, the Payroll Division will return any wages due to the employee as soon as administratively feasible. In the case of an underpayment of benefits, the Payroll Division will determine the most expeditious way to repay the amount. Repayments shall typically be repaid in the same amount of time the deductions were taken, unless other payment arrangements are made. The method of repayment shall be through payroll deduction as allowed by IRS regulations.

5.0 STATUTE OF LIMITATIONS

The County will not take action to seek reimbursement unless the action is initiated within three (3) years from the date of the overpayment of wages or underpayment of benefit premiums.

The County will not reimburse underpayment of wages unless the action is initiated within three (3) years from the date of the underpayment.

6.0 COLLECTIVE BARGAINING AGREEMENTS

The provisions of Collective Bargaining agreements/MOU supersede any collection provisions contained within this policy if in direct conflict.