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EMPLOYEE SERVICES

University of Colorado – Internal Policy or Procedure

Title: FAMLI Benefit Overpayment Procedural Statement
Effective: July 1, 2026
Issued by: Employee Services Leave Team
Approved by: Lisa Landis, Associate Vice President of Employee Services

Purpose Statement

The purpose of this procedural statement is to establish a consistent process for identifying, evaluating, communicating, and resolving **Family and Medical Leave Insurance (FAMLI) benefit overpayments** in accordance with Colorado FAMLI Rules (7 CCR § 1107-6). This procedural statement applies only to overpayments of FAMLI benefit payments made under the University's FAMLI private plan and does not apply to overpayments of an employee's regular wages, salary, or other payroll earnings, which are governed by the University's Payroll Overpayment Procedural Statement.

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Identification of an Overpayment

When a FAMLI benefit overpayment is identified, the Leave Team, in partnership with the Payroll and Leave Administrators, will:

- Determine the amount of the overpayment.
- Identify the cause of the overpayment (University error, employee error, or shared responsibility).
- Document the date the overpayment occurred and the date it was discovered.
- Make every reasonable effort to identify and review potential overpayments within **three months** of the overpayment occurring.

- Document the length of time between the overpayment and its discovery, as delays in identifying an overpayment may be considered when determining whether recovery is appropriate.

Initial Review

Prior to pursuing recovery, the Leave Team will evaluate:

- Whether the overpayment amount equals or exceeds the employee's equivalent of one week of their approved FAMLI weekly benefit amount.
- Whether the overpayment resulted primarily from:
  - University administrative or reporting error;
  - Employee action or failure to report required information; or
  - A combination of both.
- Whether the overpayment was identified within the University's standard three-month review period.
- Whether recovery is appropriate based on the totality of the circumstances.

Generally, overpayments resulting solely from University error will not be pursued for repayment unless exceptional circumstances exist.

An exception may apply when an employee reasonably knew or should have known they were receiving benefits greater than the approved amount, such as duplicate benefit processing.

Equity and Good Conscience Review

Before seeking repayment, the University will determine whether recovery would be against equity and good conscience by considering the totality of the circumstances, as defined in 7 CCR § 1107-6:6.2.

Factors include:

A. The individual's financial condition required that the amount owed be spent on reasonable and necessary living expenses;
B. The individual's household income is below 200% of the federal poverty income guidelines;
C. The individual or entity lacks the ability to pay the amount owed based on prior income level, current income and assets, and future earnings potential;
D. Requiring repayment will cause extraordinary financial hardship by depriving the individual of the ability to provide for basic necessities that cannot be deferred such as food, shelter, clothing, utilities, and medical costs;
E. The individual detrimentally changed their position in reliance on the receipt of the overpaid benefits including, but not limited to, entering into a financial and/or contractual obligation that they would not have entered except for the receipt of the overpaid benefits;
F. The individual relinquished a valuable right in reliance on the receipt of the overpaid benefits, including the receipt of other governmental benefits for which they would have

been entitled except for the receipt of the overpaid benefits. Although the individual is not required to apply for governmental benefits and be rejected from receiving them, they may be required to prove eligibility for such benefits by establishing their economic situation at the time family and medical leave insurance benefits were received as well as the requirements for receiving said benefits;

G. The individual's knowledge or lack of knowledge regarding an employer's incorrect reporting of wages; and/or
H. The individual's knowledge or lack of knowledge with regard to a provider who fails to meet the definition of health care provider, or who has provided a diagnosis or treatment outside of their licensed scope of practice, or has a license that has been suspended or revoked at the time the provider completes documentation regarding the individual's need for family and medical leave.

The Leave Team will evaluate the employee's knowledge regarding incorrect reporting (Factor G) in every case.

In addition to the factors outlined in the Colorado FAMLI Rules, the Leave Team may consider the length of time between the overpayment and its discovery, along with any other documented circumstances that support an equitable outcome.

Employee Notification

If the University determines that recovery may be appropriate, the Leave Team will notify the employee in writing by email. The notification will include:

- The amount of the overpayment.
- The reason for the overpayment.
- An explanation of how the overpayment occurred.
- A summary of the applicable Equity and Good Conscience considerations.
- A request for the employee to respond if they believe one or more of those considerations apply to their situation.
- Instructions for submitting supporting documentation and the deadline for responding.
  - Employees will be given 14 calendar days to respond.
- Notice that repayment may be pursued if no mitigating circumstances are identified.

Employee Response and Internal Review

The Leave Team will review any information submitted by the employee regarding the Equity and Good Conscience factors.

Following review of the employee's response, the Leave Team will consult with the Program Director of Leave Operations and University Counsel, as appropriate, to determine whether to:

- Waive recovery.
- Reduce the repayment amount.
- Proceed with recovery.

If the employee does not respond or is unable to demonstrate that one or more Equity and Good Conscience considerations apply, the Leave Team will proceed with the University's repayment process.

Notice of Overpayment (NOPA)

Once the Leave Team has completed its review and determined that repayment will be pursued, a Notice of Overpayment will be issued.

The employee will be provided with information regarding their right to appeal the determination in accordance with Colorado FAMLI Rules.

Notification to the Colorado FAMLI Division

If the University pursues recovery of an overpayment exceeding $25, the Leave Team will notify the Colorado FAMLI Division as required by 7 CCR § 1107-6:6.5.

Documentation and Reporting

The Leave Team will maintain documentation for each overpayment determination, including:

- Cause of the overpayment.
- Amount of the overpayment.
- Whether repayment was pursued.
- Equity and Good Conscience analysis.
- Employee correspondence.
- Final determination.
- NOPA documentation, if applicable.
- Appeal outcome, if applicable.

Records will be organized by month and calendar year to support audits, compliance reviews, and trend analysis.

The University will maintain annual reporting that includes:

- Number of overpayments identified.
- Total dollar amount of overpayments.
- Number and amount recovered.
- Number and amount waived.
- Reasons recovery was not pursued.
- Trends and recurring causes to improve administrative processes.

References

This procedure will be administered in accordance with Colorado FAMLI Rules (7 CCR § 1107-6), including the Equity and Good Conscience provisions under §§ 6.2 and 6.5.

Where appropriate, the University's Payroll Overpayment Procedural Statement will serve as the administrative framework for repayment processing and documentation.