

**441—86.19 (514I) Recovery.****86.19(1) Definitions.**

“*Administrative error*” means an action of the department or the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the department or the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

“*Client error*” means any action or inaction of the enrollee or the enrollee’s representative that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because at least one of the following occurred:

1. The enrollee or the enrollee’s representative failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or
2. The enrollee or the enrollee’s representative failed to timely report a change as defined in rule 441—86.10(514I).

**86.19(2) Amount subject to recovery from the enrollee or representative.** The department may recover from the enrollee or the enrollee’s representative the amount of premiums incorrectly paid to a health or dental plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

*a.* Premiums incorrectly paid to a health or dental plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

*b.* Payments made by a health or dental plan to a provider of medical or dental services are not subject to recovery from the enrollee regardless of the cause of the error.

**86.19(3) Notification.** The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

- a.* The name of the person for whom funds were incorrectly paid;
- b.* The period during which the funds were incorrectly paid;
- c.* The amount subject to recovery; and
- d.* The reason for the incorrect payment.

**86.19(4) Recovery.**

*a.* Recovery shall be made:

(1) From the enrollee when the enrollee completed the application and had responsibility for reporting changes, or

(2) From the enrollee’s representative (i.e., the parent, guardian, or other responsible person acting on behalf of an enrollee who is under the age of 19) when the representative completed the application and had responsibility for reporting changes.

*b.* The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee.

c. Recovery may come from income, income tax refunds, lottery winnings, or other resources of the enrollee or representative.

**86.19(5) Appeals.** The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

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