

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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TITLE 469 ASSISTANCE TO THE AGED, BLIND, OR DISABLED PROGRAM

CHAPTER 3 DETERMINATION OF BENEFITS

001. DESCRIPTION OF BENEFITS. Assistance to the Aged, Blind, or Disabled Payment Program or State Disability Program payment assistance consists of money payments to the recipient. State Disability Program Medical Payments are made directly to the provider for medical care and services.

002. PLANNING THE ASSISTANCE BUDGET. The assistance budget is planned with the recipient by discussing and explaining the following:

- (A) Budgeting process;
- (B) Individual requirements;
- (C) Persons whose needs may be included in the budget;
- (D) Use of items supplied or obtained in-kind;
- (E) Use of any income;
- (F) Determination of the amount of the assistance payment;
- (G) Provision of medical services; and
- (H) Why it is necessary for a recipient to keep the Department informed of changes in the individual's circumstances which affect his or her needs.

003. INDIVIDUAL REQUIREMENTS INCLUDED IN ASSISTANCE BUDGETS. The individual requirements are:

- (A) Standard of need;
- (B) Shelter up to the maximum; and
- (C) Special requirements.

003.01 STANDARD OF NEED. The standard of need is a consolidation of items necessary for basic subsistence with amounts based on unit size. Included in this standard are food, clothing, sundries, home supplies, utilities, laundry, telephone, garbage collection, and recreation. Also included in this standard amount are meals prepared away from home, therapeutic diet, special clothing allowance, meals furnished to a household employee, transportation for shopping, and special taxes or use charge.

003.01(A) ALTERNATE LIVING ARRANGEMENTS. The standard of need for alternate living arrangements is a consolidated allowance for items necessary for basic subsistence. Included in this standard are:

- (1) Board;
- (2) Room;
- (3) Clothing;
- (4) Personal needs;

- (5) Laundry; and
- (6) Transportation.

003.01(A)(i) LICENSING OF FACILITIES. In determining the appropriate standard to be allowed, verify the current licensure or certification of the facility.

003.01(A)(ii) BOARD AND ROOM. Board and room does not include care or supervision and may be with a relative.

003.01(A)(iii) LICENSED BOARDING HOME. Boarding homes provide the following to four or more individuals who are essentially capable of managing their own affairs:

- (1) Sleeping and other living accommodations;
- (2) A dining room, cafe, or common kitchen; and
- (3) Domestic services requested by the individuals which will assist them in daily living activities.

003.01(A)(iv) LICENSED ASSISTED LIVING FACILITY. An Assisted Living facility provides accommodation and board and care, such as personal assistance in feeding, dressing, and other essential daily living activities, for four or more individuals not related to the owner, occupant, manager, or administrator. These individuals are unable to sufficiently or properly care for themselves or manage their own affairs because of illness, disease, injury, deformity, disability, or physical or mental infirmity.

003.01(A)(v) CERTIFIED ADULT FAMILY HOME. An Adult Family Home is a residential living unit which provides full-time residence with minimal supervision and guidance to not more than three individuals age 19 or older. Service includes board and room with meals, standard furnishings, equipment, household supplies, and facilities to ensure recipient comfort. These individuals are essentially capable of managing their own affairs but are in need of supervision. This may include supervision of nutrition by the facility on a regular, continuing basis, but not necessarily on a consecutive 24-hour basis.

003.01(A)(vi) LICENSED GROUP HOME FOR CHILDREN AND CHILD CARING AGENCY. This group care facility provides 24-hour accommodation for minors including care and supervision. The home provides services to two or more individuals who are developmentally disabled.

003.01(A)(vii) LICENSED CENTER FOR THE DEVELOPMENTALLY DISABLED. A center for the developmentally disabled is any facility, place, or building not licensed as a hospital which provides accommodation, board, training, and other services when appropriate, primarily or exclusively, for four or more persons who are developmentally disabled. Staff in a center for the developmentally disabled may assist individuals residing there in taking routine oral or external medication and also provide for storage and handling of the medication.

003.01(A)(vii)(1) CENTER DEFINED. The term "center" includes:

- (a) GROUP RESIDENCE. Any group of rooms located within a dwelling and forming a single habitable unit with living, sleeping, cooking, and eating facilities for 4 through 15 developmentally disabled persons.
- (b) INSTITUTION FOR THE DEVELOPMENTALLY DISABLED. Any facility other than a skilled nursing facility or an intermediate care facility I or II where 16 or more developmentally disabled persons reside.

003.01(A)(viii) LONG TERM CARE FACILITY. The payment to a long term care facility includes an allowance for personal needs of the recipient which is determined by the licensure or certification of the facility where the recipient resides.

003.01(A)(ix) ASSISTED LIVING WAIVER. The Standard of Need chart explains the standard for an individual receiving Assisted Living Waiver services. The monthly standard includes an allowance for personal needs of the recipient.

003.01(A)(x) LICENSED MENTAL HEALTH CENTER. Mental health center means a facility where shelter, food, counseling, diagnosis, treatment, care, or related services are provided for a period of more than 24 consecutive hours to persons residing at the facility who have a mental disease, disorder, or disability.

003.01(B) ASSISTANCE TO THE AGED, BLIND, OR DISABLED OR STATE DISABILITY PROGRAM STANDARD OF NEED. The standard of need for independent living and shelter costs, or the consolidated standard for alternate living, when Social Security determines that the recipient will continue to receive full Supplemental Security Income payment for up to three months because the individual is likely to return to the previous living arrangement. Follow procedures for allowing shelter and utilities when:

- (i) Supplemental Security Income reduces or terminates the payment at the end of the three-month extension;
- (ii) Supplemental Security Income determines that the individual does not qualify for the full benefit for the three-month period; or
- (iii) The recipient was not receiving Supplemental Security Income before admission to the medical facility.

003.02 SHELTER. The item shelter includes rent and the expenses of home ownership.

003.02(A) MAXIMUM SHELTER ALLOWANCE.

- (1) The single shelter amount for one; or
- (2) The multiple shelter amount for:
 - (a) A married couple who are living together;
 - (b) An Assistance to the Aged, Blind, or Disabled or State Disability Program parent living with a minor child; or
 - (c) An Assistance to the Aged, Blind or Disabled, or State Disability Program recipient living with other essential persons whose needs are included in the budget.

003.02(A)(i) RENT. The allowance for rent should be sufficient to provide the family with decent quarters comparable to the standard for persons of modest circumstances in the same community.

003.02(A)(ii) HOME OWNERSHIP.

003.02(A)(ii)(1) EXPENSES. Expenses of home ownership may be allowed if the recipient or spouse owns the home in which the individual lives, provided the allowance does not exceed the maximum shelter limit allowed.

- (a) If the recipient or spouse has only a life interest in the home, the terms of the conveyance must be examined in determining whether the recipient or the title-holder is responsible for the expenses of home ownership. The case record must contain an explanation if an allowance is included in the budget.

003.02(A)(ii)(2) STANDARDS FOR DETERMINING COSTS. The cost of interest or payments on mortgages or contract purchases, current taxes, and insurance may be allowed in the assistance budget as follows:

- (a) Interest and payments on the mortgage or purchase contract on the home may be included in the budget.
- (b) Current taxes on the home occupied by the recipient may be allowed on a monthly prorated basis unless the payment of taxes is included in the monthly payment on the mortgage or contract purchase.
- (c) If taxes have been allowed in an earlier budget but not paid, they may not be included in the budget again.
- (d) The amount of the homeowner's insurance is included in the budget on a prorated or lump sum basis, unless insurance is a part of the payment on the mortgage or purchase contract.
- (e) The total cost of home ownership must not exceed the maximum shelter allowance.

003.03 SPECIAL REQUIREMENTS. Special requirements are those items that are essential because of the particular circumstances of an individual's situation.

003.03(A) ITEMS THAT MAY BE ALLOWED AS SPECIAL REQUIREMENTS. The following items may be used as a special requirement:

- (i) Transportation;
- (ii) Household furniture and appliances;
- (iii) Expenses of moving;
- (iv) Back taxes;
- (v) Subsistence to obtain medical care;
- (vi) Maintenance for a service animal;
- (vii) Guardian or conservator fee of \$10 per month;
- (viii) Medical expenses of an essential person;
- (ix) Cost of home repair;
- (x) Automobile liability insurance;
- (xi) Lifelines;
- (xii) Vehicle repair;
- (xiii) Home modification and assistive technology equipment; and
- (xiv) Specialized diet allowance.

003.03(B) ITEMS THAT ARE NOT ALLOWED AS SPECIAL REQUIREMENTS. The following items are not allowed as special requirements:

- (i) Personal computers because they are considered a vocational rehabilitation and educational item;
- (ii) Smoking cessation programs because there are no national standards or official oversight of these programs. Guaranteed one time, long term smoking cessation success is not demonstrated by current programs;
- (iii) Health club memberships and exercise or fitness equipment because these are related to weight loss and rehabilitation and essential components to assess the success of the individual program and to monitor the recipient's progress are unavailable;
- (iv) Weight loss programs because there are no national recommendations and standards for these programs. Safety and efficacy issues are unresolved on the national level with no federal Department of Agriculture or official oversight of this industry. Essential components for individualization for each person's special circumstances are not available;
- (v) Lawn care service, snow removal, and the equipment and supplies for them; and
- (vi) Medical services and goods which are not covered by Medicaid or State Disability Medical Program because of limits on amount, scope, or duration established by the Department.

004. BUDGET COMPUTATION. When an application for assistance is approved during the initial 30 day period, the first month's payment begins with date of application, if all eligibility factors are met. If eligibility is determined during the additional 30 day period, the payment is prorated from the date the department receives sufficient information to verify eligibility.

004.01 BUDGETING PROCESS FOR INDIVIDUALS NOT RECEIVING STATE SUPPLEMENTAL INCOME, INCLUDING INDIVIDUALS DETERMINED ELIGIBLE FOR 1619(B) STATUS BY SOCIAL SECURITY ADMINISTRATION. The budget process for determining eligibility for and amount of assistance payment is completed through the Department of Health and Human Services-designated electronic system.

004.01(A) ASSISTANCE TO THE AGED, BLIND, OR DISABLED PAYMENT BUDGETING PROCESS FOR RECIPIENTS RECEIVING SUPPLEMENTAL SECURITY INCOME. The budget for recipients who are receiving State Supplemental Income is completed through the Department of Health and Human Services-designated electronic system. To determine need:

- (i) Only the following available net income is computed. This income is not allowed the \$20 general income disregard:
 - (1) Income of non-spouse essential persons;
 - (2) Veteran's Aid and Attendant benefits;
 - (3) Income allocated from another assistance unit; and
 - (4) Income of an ineligible spouse not used by the Social Security Administration in the calculation of the recipient's Supplemental Security Income payment. Social Security disregards the deemed income if it is less than the difference between the federal benefit rate for an individual and a couple. Social Security calculates the Supplemental Security Income payment based on the federal benefit rate for an individual.

004.01(B) DEDUCTIONS FOR MEDICAL INSURANCE. Assistance to the Aged, Blind, or Disabled Payment Program does not allow for deductions for medical insurance premiums, such as private policies, Medicare, or Medicare supplements in the budget. The State Disability Medical Program budget can reflect medical insurance deductions.

004.02 PERSONS INCLUDED IN THE BUDGET. The assistance budget is computed to determine the need of a recipient for assistance. Consideration is given to the fact that the presence of other related persons living in the home may be essential to the individual's needs and well-being and affect the individual's need. The individual requirements of these essential persons may be included in the budget of the recipient. Essential persons in the home may include the spouse, minor or adult children, grandchildren, parents, sisters, or brothers. The decision of whether another related individual is essential to the recipient rests with the recipient. If it has been determined that the related individual is not eligible for medical assistance under another program, and it has been determined that the individual must be in the presence of our recipient full time, then the individual can be an essential person. An individual, who meets the above criteria and who is considered a spouse by Social Security, even though the individual is not married to the recipient, is considered an essential person in the Aged, Blind or Disabled budget. The essential person's income and resources are included in the recipient's Aged, Blind or Disabled budget, and their combined income and resources do not exceed standards.

- (1) A spouse or specified relative can be an essential person; unless:
 - (i) They are not living together;
 - (ii) The spouse or specified relative is an ineligible alien;
 - (iii) The spouse or specified relative is a fleeing felon;
 - (iv) The spouse or specified relative is eligible for assistance in his or her own right, such as receives medical assistance from another program;
 - (v) The spouse or specified relative is sanctioned;
 - (vi) The spouse is receiving Veteran's benefits and the recipient is current pay Supplemental Security Income; or
 - (vii) The spouse or specified relative failed to comply or apply for potential benefits. Medical health insurance premium and paid medical expenses may be paid for essential persons under Aged, Blind, or Disabled Special Requirements.
- (2) The needs of an ineligible spouse are not included as an essential person in the recipient's budget. If the ineligible spouse is receiving Veterans benefits based on need that Social Security is disregarding in determining the recipient's Supplemental Security Income, the individual cannot be an essential person.
- (3) The needs of an essential person may be included in the budget to determine eligibility for payment. When an essential person has been included in the recipient's budget, their combined income and resources cannot exceed standards.
- (4) If there is no budgetary need, close the case and determine State Disability Payment medical eligibility with a Share of Cost using the appropriate income level. The appropriate maintenance level for the State Disability Medical Program is determined by considering the recipient and the essential person only if the essential person is the spouse or minor child.
- (5) If the ineligible parent of a minor Assistance to the Aged, Blind, or Disabled or State Disability Program recipient does not have income which has been considered for deeming purposes, the individual's needs may be included in the minor's budget if it has been determined that the parent's continued full-time presence in the home is

necessary for the child's well-being. If the parent has income which is being considered for deeming, the individual's needs have already been recognized in this process. If a parent's needs have been removed from an Aid to Dependent Child unit for noncooperation, such as Employment First employability or child support, that individual's needs may not be included in the Blind, Disabled, or State Disability Program child's budget.

004.02(A) POTENTIAL ASSISTANCE FOR ESSENTIAL PERSONS. Essential persons are required to apply for any financial assistance for which they appear to be eligible.

004.02(B) DETERMINING TOTAL REQUIREMENTS. In determining the amount of the individual requirements in the following subparts, living independently includes rent, allowances for the cost of home ownership, and the cost of a room when the recipient is living in a boarding home and paying room only. Alternate living arrangements include board and room, licensed boarding homes, assisted living, certified adult family homes, licensed group homes for children or child caring agencies, and centers for the developmentally disabled. Care facilities include nursing homes and public institutions for the treatment of mental diseases or developmental disabilities.

004.02(B)(i) LIVING ALONE. The following items show in the budget of an Aged, Blind, or Disabled or State Disability Program recipient:

004.02(B)(i)(1) LIVING INDEPENDENTLY. The budget of an Aged, Blind, or Disabled or State Disability Program recipient who is living alone in an independent living situation shows:

- (a) The standard of need for one;
- (b) The actual shelter expense up to the single shelter amount; and
- (c) Special requirements, if applicable.

004.02(B)(i)(2) LIVING IN AN ALTERNATE LIVING ARRANGEMENT. The budget of an Aged, Blind, or Disabled or State Disabled Program recipient who is living alone in an alternate living arrangement shows:

- (a) The standard of need for the alternate living situation; and
- (b) Special requirements, if applicable.

004.02(B)(ii) LIVING WITH ESSENTIAL PERSON. The following living arrangements are considered when the recipient is living with the essential person:

004.02(B)(ii)(1) LIVING INDEPENDENTLY. The budget of an Aged, Blind, or Disabled or State Disability Program recipient who is living with an essential person in an independent living situation shows:

- (a) The standard of need for the recipient plus essential person's;
- (b) Actual shelter expense paid up to the multiple shelter amount; and
- (c) Special requirements, if applicable for the recipient and the essential person.

004.02(B)(ii)(2) LIVING IN A BOARD AND ROOM ARRANGEMENT. The budget of an Assistance to the Aged, Blind, or Disabled or State Disability Program

recipient who is living with an essential person in a board and room arrangement shows:

- (a) Board and room as paid plus an allowance for personal needs up to the maximum for the recipient and essential person; and
- (b) Special requirements, if applicable, for the recipient and essential person.

004.02(B)(iii) LIVING WITH RECIPIENTS WITH RELATIVE RESPONSIBILITY. When the Assistance to the Aged, Blind, or Disabled or State Disability Program recipient is living with an eligible individual for whom there is relative responsibility, payment is computed according to the guidelines in the following subparts.

004.02(B)(iv) SPOUSE ON AGED, BLIND, OR DISABLED OR STATE DISABLED PROGRAM. The needs of the eligible Assistance to the Aged, Blind, or Disabled or State Disability Program couple who are living together, either independently or in an unlicensed board and room, are shown on the same budget form and the payment is divided equally.

004.02(B)(iv)(1) LIVING INDEPENDENTLY. When the couple is in an independent living situation, the budget must show:

- (a) The standard of need for two;
- (b) Actual shelter expense paid up to the multiple shelter amount; and
- (c) Special requirements for each, if applicable.

004.02(B)(iv)(2) LIVING IN A BOARD AND ROOM ARRANGEMENT. When the couple is in an unlicensed board and room arrangement, the budget must show:

- (a) The actual amount of the board and room up to the maximum for the Assistance to the Aged, Blind, Disabled or State Disability Program recipient and the Assistance to the Aged, Blind, or Disabled or State Disability Program spouse; and
- (b) Special requirements for an Aged, Blind, or Disabled or State Disability recipient or an Aged, Blind, or Disabled or State Disability spouse.

004.02(B)(iv)(3) SPOUSE ON AID TO DEPENDENT CHILDREN OR REFUGEE RESETTLEMENT PROGRAM. If an Assistance to the Aged, Blind, or Disabled or State Disability Program recipient lives with a spouse who is receiving Aid to Dependent Children or Refugee Resettlement Program assistance, the budgets must be computed separately. Neither the needs nor the income of the Aid to Dependent Children or Refugee Resettlement Program recipient may be considered in the Assistance to the Aged, Blind, or Disabled, or State Disability Program budget.

004.02(B)(iv)(3)(a) LIVING INDEPENDENTLY. When the couple is in an independent living situation, the budget for the Assistance to the Aged, Blind, or Disabled or State Disability Program recipient will show:

- (1) The prorated share of the standard of need based on the total number in the case;
- (2) The prorated share of the shelter allowance up to the multiple shelter amount based on the total number in the case; and

(3) Special requirements, if applicable.

004.02(B)(iv)(2)(a)(i) LIVING IN AN ALTERNATE LIVING ARRANGEMENT. When the Assistance to the Aged, Blind, or Disabled or State Disability Program recipient is in an alternate living arrangement, the budget for the Assistance to the Aged, Blind, or Disabled or State Disability Program individual will show:

- (1) The standard of need for the appropriate alternate living arrangement; and
- (2) Special requirements, if applicable.

004.02(B)(iv)(4) LIVING WITH AN ELIGIBLE MINOR CHILD OR PARENT. If a recipient lives with an eligible minor child or parent, such as an Aged, Blind, or Disabled, State Disability parent or an Aid to Dependent Children, Assistance to the Aged, Blind, or Disabled, or State Disability Program child, the budgets are computed separately.

004.02(B)(iv)(4)(a) LIVING INDEPENDENTLY. When the individual and the eligible child are in an independent living situation, the budget for each must show:

- (1) The prorated share of the standard of need based on the total number in the case;
- (2) The prorated share of the actual shelter paid up to the multiple shelter amount based on the total number in the case; and
- (3) Special requirements, if applicable.

004.02(B)(iv)(4)(b) LIVING IN AN ALTERNATE LIVING ARRANGEMENT. When the Assistance to the Aged, Blind, or Disabled or State Disability Program recipient is in an alternate living arrangement, the budget for each Aged, Blind, or Disabled or State Disability recipient must show:

- (1) The standard of need for the appropriate alternate living arrangement; and
- (2) Special requirements, if applicable.

004.02(B)(v) LIVING WITH PERSONS WITH NO RELATIVE RESPONSIBILITY. Only the needs of the recipient are considered in the budget when the recipient is living with other individuals for whom there is no relative responsibility.

004.02(B)(v)(1) LIVING WITH SELF-SUPPORTING INDIVIDUALS WITH NO RELATIVE RESPONSIBILITY. If a recipient is sharing a household with a self-supporting individual for whom the recipient has no relative responsibility, the budget is computed:

- (a) On a board and room basis, if the recipient is required to pay board and room;
- (b) On an expense-sharing plan when in an independent living arrangement using:
 - (i) The standard of need for one;
 - (ii) Shelter costs, not to exceed the maximum, determined by:

- (1) The prorated share of total shelter costs based on the number of persons in the case not to exceed the maximum single shelter amount; or
- (2) The actual amount of shelter paid up to the single shelter amount if the recipient can verify that they pay an amount other than the prorated share; and
- (iii) Special requirements, if applicable.

004.02(B)(v)(2) LIVING WITH OTHER RECIPIENTS WITH NO RELATIVE RESPONSIBILITY. The budget of an Assistance to the Aged, Blind, or Disabled or State Disability Program recipient living in the same household with other recipients for whom the Assistance to the Aged, Blind or Disabled or State Disability Program recipient has no relative responsibility is computed according to an independent living arrangement.

004.02(B)(v)(2)(a) INDEPENDENT LIVING ARRANGEMENT. When the Assistance to the Aged, Blind, or Disabled or State Disability Program recipient is in an independent living arrangement, the budget will show:

- (i) The standard of need for one;
- (ii) The prorated share of total shelter costs based on the number of persons in the case not to exceed the single shelter amount; and
- (iii) Special requirements if applicable.

004.02(B)(v)(2)(b) LIVING IN A BOARD AND ROOM ARRANGEMENT. When the Assistance to the Aged, Blind or Disabled or State Disability Program recipient is in a board and room or boarding home arrangement, the budget will show:

- (i) Board and room as paid plus personal requirements up to the maximum; and
- (ii) Special requirements, if applicable.

004.02(B)(vi) RECIPIENT LIVING IN A CARE FACILITY. The budget of a recipient living in a care facility shows:

- (1) The standard of need for the correct living arrangement; and
- (2) An amount up to \$10 when the recipient has a guardian or conservator who requests a fee.

004.02(B)(vii) ASSISTANCE TO THE AGED, BLIND, DISABLED, OR STATE DISABILITY PROGRAM CHILD LIVING WITH SELF-SUPPORTING PARENTS. If a Blind or Disabled, or State Disability minor child lives with a self-supporting parent, the child's budget will show:

- (1) The prorated share of the standard of need based on the total number in the case;
- (2) The prorated share of the actual shelter paid up to the multiple shelter amount; and
- (3) Special requirements, if applicable.

005. PAYMENTS FOR ASSISTANCE. Aged, Blind, or Disabled or State Disability Program payments may be made as follows:

005.01 TO A GUARDIAN, CONSERVATOR, OR DULY EXECUTED POWER OF ATTORNEY. If an Assistance to the Aged, Blind, Disabled, or State Disability Program recipient has a guardian, conservator, or individual acting under a duly executed power of attorney, Assistance to the Aged, Blind, Disabled, or State Disability Program payments may be made to the appointed person on behalf of the recipient. Certified copies of the letter of guardianship, conservatorship, or power of attorney are filed with the local office.

005.02 TO A PROTECTIVE PAYEE. Protective payments may be made on behalf of a recipient who has a physical or mental impairment which causes an inability to manage Assistance to the Aged, Blind, Disabled, or State Disability Program payments.

005.03 ERRONEOUS STATE SUPPLEMENT PAYMENTS. Underpayments and overpayments are processed as follows:

005.03(A) UNDERPAYMENTS. If a state supplement payment is made for an amount less than the amount the recipient was entitled to receive, a correction must be made. The retroactive corrective payments may be made for the 12 months preceding the month in which the underpayment is discovered. State supplement payments made to correct an underpayment are not considered income or a resource in the month paid or the month following the month paid.

005.03(B) OVERPAYMENTS. There are two types of overpayments:

- (i) Departmental errors caused by inaccurate budget computation or because the worker failed to take action; and
- (ii) Household errors caused because the recipient who failed to provide information, or the information provided was inaccurate or incomplete, resulting in an overpayment.

005.03(C) All overpayments, regardless of cause, must be recouped.

005.03(C)(i) RECOUPMENT OF OVERPAYMENTS. If a state supplement payment was made for an amount greater than the amount the recipient was entitled to receive, the overpayment is recouped by:

- (1) Reducing the current state supplement payments by at least ten percent; or,
- (2) If the recipient is no longer eligible for a grant, the individual may make arrangements to repay it on their own.

005.03(C)(ii) Recoupment is limited to the amount of overpayment which occurred in the 12 months preceding the month in which the overpayment was discovered.