

15 Raising social welfare overpayments

15.1 The Department of Social Protection (the Department) makes weekly or monthly income support payments to around two million claimants, with scheme expenditure of €23.9 billion in 2022 funded through the Vote for Social Protection and the Social Insurance Fund (SIF).

- Vote-funded schemes are mainly social assistance, and the eligibility criteria usually include a means test.
- SIF-funded schemes are based on social insurance, where any benefits due are based on the claimant's recorded PRSI contributions.

15.2 Excess payment of income support arises where a claimant receives a payment to which they were not entitled or the level of payment exceeds their entitlement. This can happen for example where the claimant's means were not fully disclosed when applying for the payment, those means or the claimant's other circumstances changed after the payment commenced, or the Department made an error when assessing the declared means.

15.3 When the Department identifies an excess payment situation, it may, if appropriate, seek to recover some or all of the amount overpaid in the past. It does this by raising an overpayment liability, or debt, in respect of the claimant.¹ Significant sums may be involved in certain cases, and so ensuring prompt identification of overpayments is important. Because of the potential impacts of overpayment recovery on claimants with limited means, appropriate controls are required to ensure fairness and reasonableness.

15.4 This chapter examines

- trends in the raising of overpayments
- the Department's processes and its guidance to staff and claimants in relation to overpayments
- Department staff compliance with the guidance issued by the Department
- the Department's management of debt of deceased claimants.

Chapter 16 examines the Department's processes after an overpayment is raised, in relation to the recovery or write-off of overpayment debt.

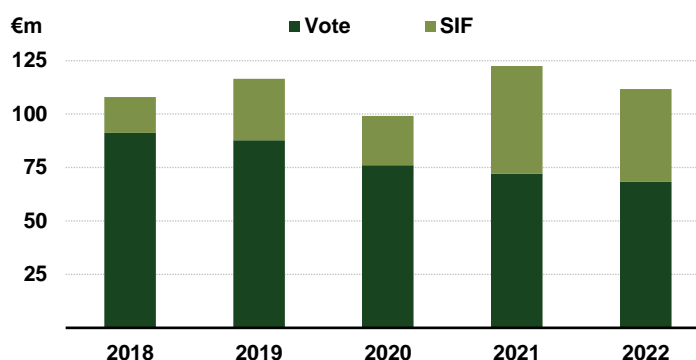
15.5 This examination reviewed key documents and data produced by the Department and interviewed key staff. The examination also reviewed a random sample of one hundred cases where the Department had identified a payment in excess of entitlement through its control work.

¹ The Department's definition of an overpayment is any amount paid in excess of the amount that a customer was entitled to receive under statute or scheme guidelines and which has been so determined by a deciding officer or designated person.

What are the trends in overpayments raised?

- 15.6** In recent years, the value of overpayments raised has been relatively constant, in the range €100 million to €125 million (see Figure 15.1). Overpayments are likely to arise more frequently on Vote-funded schemes because means assessments are a key eligibility condition but the value of assistance-scheme overpayments has trended downwards in recent years.¹ In 2021 and 2022, there was a significant increase in the value of overpayments raised on SIF-funded schemes, primarily due to overpayments raised on the pandemic unemployment payment.

Figure 15.1 Value of overpayments raised, Vote and SIF, 2018 to 2022



Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

- 15.7** When a payment in excess of entitlement (an excess payment) is detected, the deciding officer may make

- a 'current date' decision, which reduces the rate of future payments or terminates the claim, but does not seek to recover any past excess payments — no overpayment debt is raised
- a retrospective decision, which reduces the rate of payments or terminates the claim, and seeks to recover past excess payments — overpayment debt is raised.

- 15.8** The Department requires staff to classify the cause of each overpayment raised into one of four classifications (see Figure 15.2).

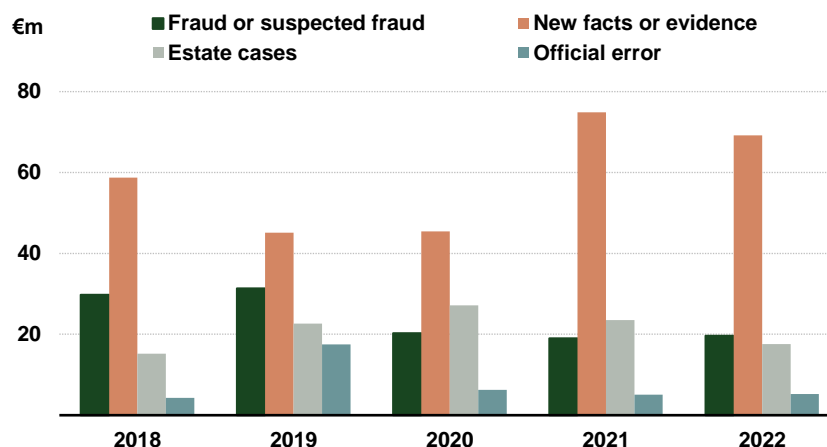
- **Fraud or suspected fraud:** arises where a deciding officer is satisfied that there is sufficient evidence that the customer deliberately provided false or misleading information or wilfully concealed relevant information. The revised decision is effective from the date that the information presented or concealed affected the rate of payment (the revised decision is always retrospective). Such cases are generally suitable for prosecution.²
- **New facts or evidence:** arises where new facts or information comes to light but there is no evidence that the claimant deliberately attempted to conceal facts or information from the Department.³ The deciding officer determines the date of effect of the revised decision, having regard to the circumstances of the case so a current date or retrospective decision may be made.
- **Official error:** arises where a deciding officer incorrectly applied legislation, incorrectly calculated the rate payable, or failed to act on information received from a claimant.⁴ Deciding officers generally make a current date decision, and therefore do not raise an overpayment debt against the claimant.

¹ An exception is the child benefit payment, which is a universal payment for which there is no means assessment.

² Section 302 (a) of the Social Welfare (Consolidation) Act 2005 (the Act) provides the basis for this decision.

³ Section 302 (b) of the 2005 Act provides the basis for this decision. This classification was previously referred to as claimant error. Examples include a claimant providing inaccurate or incomplete information or there was an unreported change in the claimant's circumstances.

⁴ Section 302 (c) of the 2005 Act provides the basis for this decision. This classification was previously referred to as Departmental error.

Figure 15.2 Value of overpayments raised by classification, 2018 to 2022

Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

- **Estate case:** arises where, subsequent to the death of a claimant, it comes to light that not all of the deceased person's means had been reported or disclosed during the time they were in receipt of income support — this may be due to suspected fraud, new facts or evidence — or there was excess payment due to official error. Depending on the circumstances, an overpayment may be raised, and the Department can recover (some or all of) the amount overpaid from the estate of the deceased claimant.

Value of overpayments by scheme

1 The Department provided the following illustration: a claimant is returning to work on a Monday and informs the Department on the Friday beforehand. As the payment for the week has already run, this will result in an overpayment of either two or three days depending on whether the claimant is on jobseeker's allowance or benefit.

15.9 The value of overpayments raised varies significantly by scheme (see Figure 15.3).

- Many low value overpayments are raised in relation to jobseeker's allowance and benefit schemes. The Department stated that there is a high volume of overpayments due to 'working while claiming', as the Department often may not have sufficient notice to amend a payment when a claimant returns to work.¹
- Fewer overpayments are raised on pension schemes but the average overpayment value is much higher.

Figure 15.3 Value of overpayments raised and average overpayment value, by scheme, in 2022

Scheme name	Value of overpayments raised	Average overpayment
State pension non-contributory	€21.8 million	€8,310
Jobseeker's allowance	€20.7 million	€900
Pandemic unemployment payment	€17.0 million	€4,238
State pension contributory	€7.1 million	€1,089
Jobseeker's benefit	€6.9 million	€403
Disability allowance	€6.4 million	€4,479
Carer's allowance	€6.2 million	€10,589
Illness benefit	€5.7 million	€554
One-parent family payment	€4.8 million	€1,982
Widow(er)s pension contributory ^a	€3.7 million	€1,081

Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

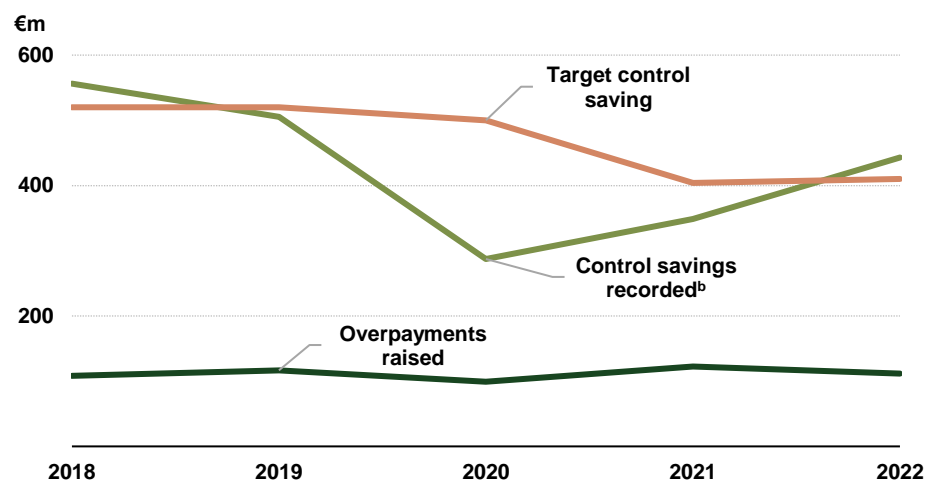
Note: a Full title: Widow's/widower's/surviving civil partner's contributory pension.

Overpayments versus control savings

- 15.10** The Department undertakes programmed control work to identify past, and to prevent future, excess payments. It uses 'control savings' as the key performance measure to estimate how much it has saved through this control work. For each scheme area, the Department sets annual targets for the number of control reviews to be conducted and the value of control savings to be made.¹ The Department does not set a target for the value of overpayments to be raised in a year.
- 15.11** The Department estimates the value of control savings achieved in respect of a detected excess payment case as the sum of
- the value of any overpayment debt raised
 - the value of future excess payments that were expected to be prevented.
- 15.12** The Department only counts a control saving where it had decided to conduct a review which then identified an excess payment. It does not record control savings where a review was initiated by the client providing voluntary information.
- 15.13** When calculating the value of future excess payments prevented, the Department applies a multiplier to the value of the weekly/monthly excess payment identified, on the basis that it would otherwise have continued for a period ranging between four and 136 weeks, depending on the scheme. As a result, the value of control savings recorded is significantly greater than the value of overpayments raised (see Figure 15.4). A lower multiplier is sometimes assigned to cases where the payment is reduced compared to being terminated. Annex 15A sets out the multipliers used for each scheme. The multipliers were developed by the Department in conjunction with the Central Statistics Office. The Department stated that similar control savings methodologies are used in the UK and Australia.

¹ The Department sets these targets under its compliance and anti-fraud strategy.

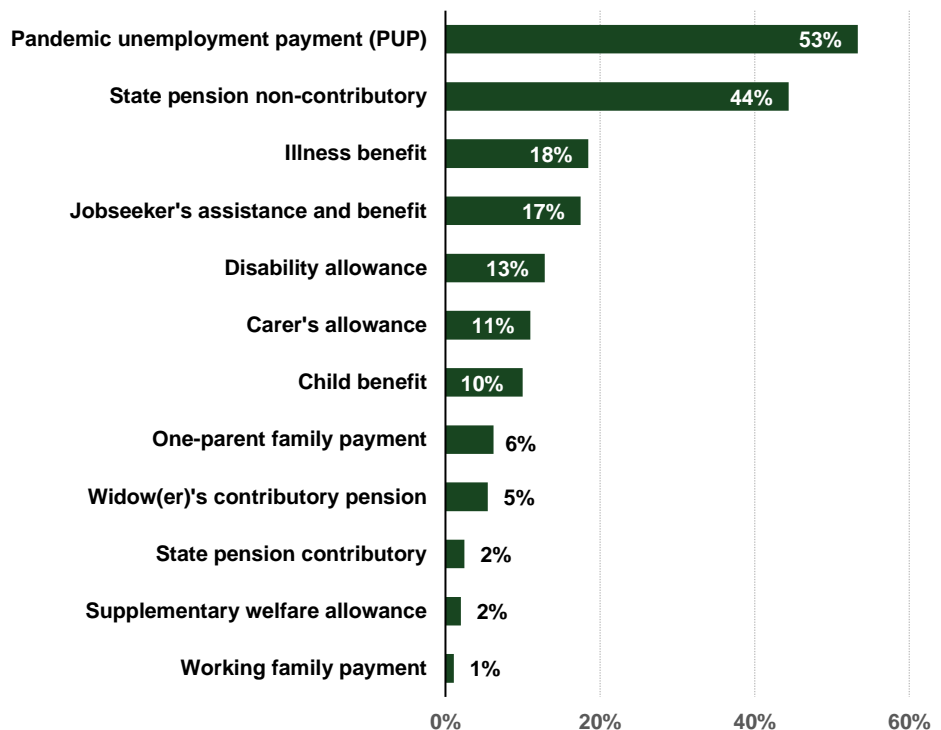
Figure 15.4 Value of control savings recorded and overpayments raised, 2018 to 2022^a



Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

- Notes:
- a The value of overpayments raised shown here includes those raised following a control review and those raised for other reasons, such as on foot of information voluntarily provided by a claimant.
 - b The Department has stated that the reduction in control savings recorded in 2020 and 2021 was a consequence of restrictions imposed during the Covid-19 pandemic.

Figure 15.5 Value of overpayments raised due to control reviews as a percentage of control savings, by scheme area in 2022^a

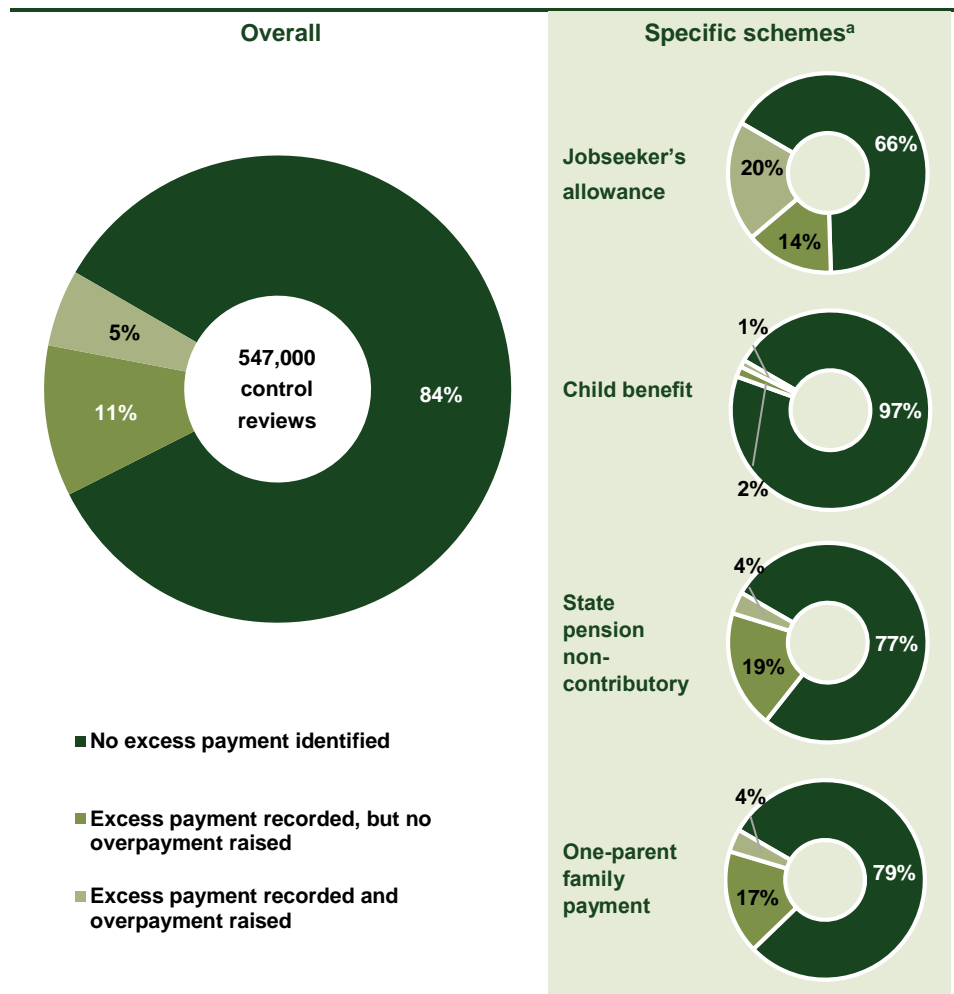


Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

- Note:
- a Value of overpayments raised in this analysis includes only overpayments raised on foot of a control review which resulted in a control saving. Analysis indicates that around 68% of overpayments raised resulted from the Department's control work. The remaining 32% of overpayments were raised on foot of information from claimants — these cases do not result in control savings being recorded.

- 15.14** In many cases where a control saving is recorded, the value is entirely based on future savings and there is no related overpayment debt raised (that is, current date decisions).
- 15.15** Given the variation in outcome by scheme shown in Figure 15.5, analysis by the Department of a sample of claims from different schemes would provide insight into whether the differences relate to the inherent characteristics of different schemes or from the application of discretion in how decision rules and guidelines are applied by deciding officers.
- 15.16** The Department conducts two types of claim analysis
- control reviews, which are targeted reviews selected because the risk of excess payment in certain case types is greater than average
 - control surveys, which are randomly selected reviews to determine the level of excess payment that is occurring.¹
- 15.17** The majority of claim reviews are control reviews. It is to be expected that control reviews will identify a higher rate of excess payment than control surveys because control reviews are selected based on perceived risk instead of random selection.

Figure 15.6 Rate of excess payments identified by controls reviews in 2022



¹ See *Report on the Accounts of the Public Services 2022*, chapter 13, Regularity of social welfare payments.

Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

Note: a The specific schemes shown are high-expenditure schemes on which a control survey has recently been conducted.

15.18 The effectiveness of the Department's identification of higher-risk claims can be assessed by comparing the extent to which the (targeted) control reviews detected control savings more frequently than a random selection. For the four schemes referred to in Figure 15.6, that comparison indicated that the identification of higher-risk claims was very effective for the jobseeker's allowance and child benefit schemes. In contrast, targeted control testing was less effective — there was little difference between randomly selected and targeted claims — for the non-contributory State pension and the one-parent family payment.

Improvement in controls to reduce overpayments

15.19 The Department stated that the primary causes of overpayment are

- working while claiming
- payments after death
- changes in means that the Department was not informed of.

15.20 In relation to working and claiming, the Department stated that it is placing increased emphasis on real-time Revenue data on pay to employees, with monthly checks on

- claimants who have no earnings declared as means, but who appear on Revenue earnings data
- changes in the rate of income which have not been declared
- employment details for qualifying adults
- changes in employment and random checks for casual workers.¹

15.21 Deaths in Ireland must be registered within a maximum of twelve months. When the death is registered, the personal public service number (PPSN) of the deceased person must be provided, enabling the Department to match the deceased person to claims in payment.² Legislation is currently being prepared to introduce a requirement that deaths are notified to the General Register Office within five days. Family members will also be required to complete the registration process within 28 days. The Department considers that shortening the notification period(s) would help to reduce the level of payments after death.

15.22 To detect changes in means which the Department has not been informed of, the Department is using Revenue data and issuing change of circumstance letters to claimants. The Department expects to introduce an automated system to issue letters to claimants on means-tested schemes, reminding them of the requirement to inform the Department of changes in means (this process is currently manual), with all scheme claimants to receive such notification over a period of years on a cyclical basis.

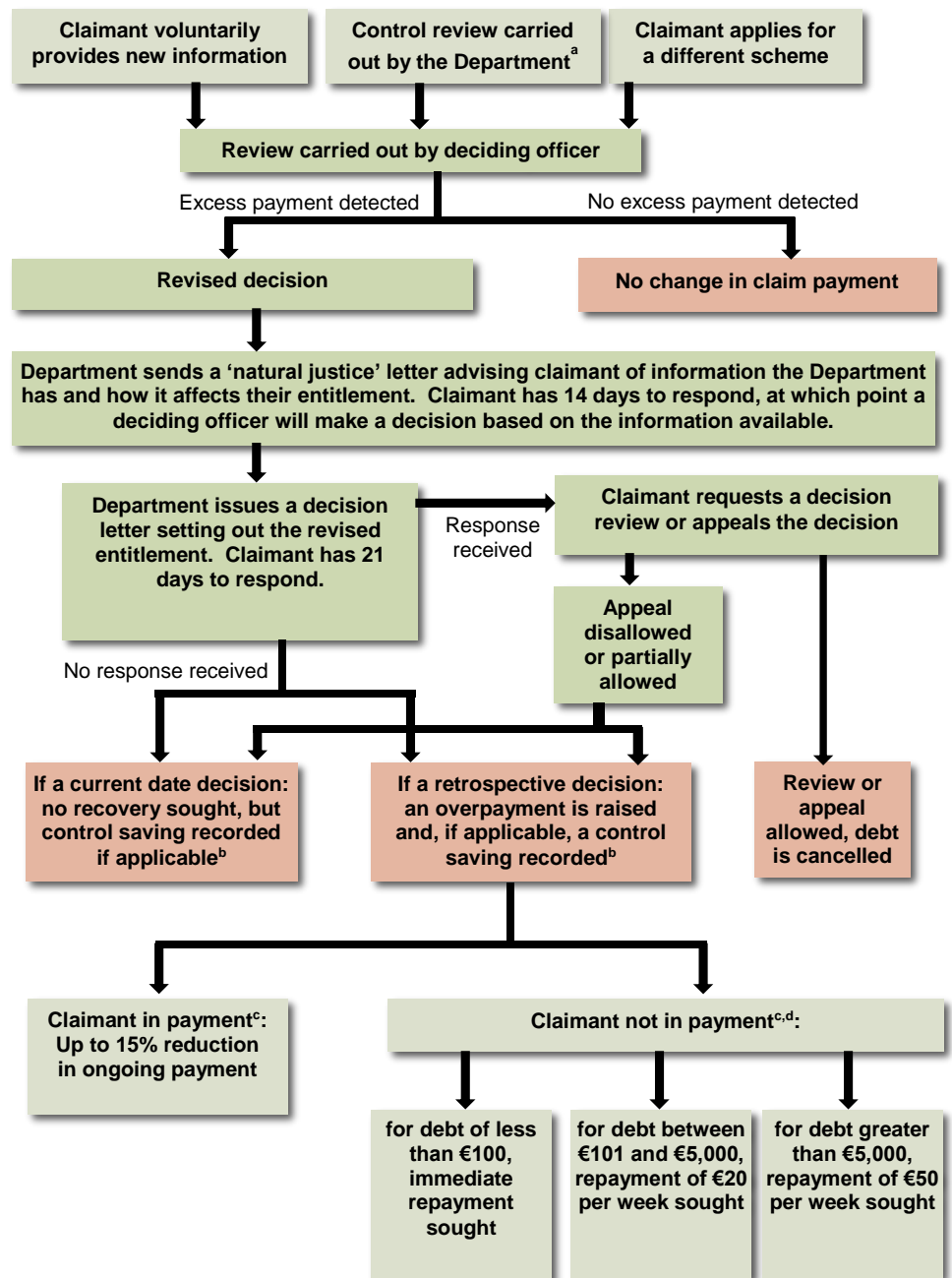
¹ Revenue real-time reporting commenced on 1 January 2019.

² The estate of a claimant is entitled to six weeks' payments after death in certain circumstances.

Raising an overpayment

15.23 The Department has an established process for the review of claims, which may result in an overpayment being raised and recovered, as set out in Figure 15.7.

Figure 15.7 Process for the identification and raising of overpayments



Source: Office of the Comptroller and Auditor General

- Notes:
- a A claim may be selected for a control review due to random selection (e.g. as part of a control survey), the presence of certain risk factors, an anonymous disclosure, or as part of an annual recertification process.
 - b Where the review was initiated by the Department, a control saving will be recorded. Where the review was initiated by the claimant, a control saving should not be raised.
 - c The Department and claimant may agree a lower or higher rate of recovery.
 - d If no response is received after 21 days the Department issues a reminder letter. If a response still is not received after another 14 days the Department issues a final letter advising that the Department may utilise notice of attachment powers.

Guidance to staff

- 15.24** A deciding officer may review the basis on which a claimant has been awarded a payment, and may issue a revised decision in relation to that payment.^{1,2} Each officer is required to make an independent judgement on the application of the law, but is expected to be familiar with guidelines issued by the Department to enhance the consistency of decisions. The Department's Decisions Advisory Office (DAO) provides guidance to officers in relation to making initial decisions and making revised decisions.³ In February 2023, the Department provided updated guidance to staff on the management of overpayments.⁴
- 15.25** The calculation of the amount to be recovered as an overpayment is limited to the amount of money received by the claimant. The Department cannot charge interest on the overpayment amount or apply penalties as a deterrent to fraud. There is no minimum value for which an overpayment debt can be raised.
- 15.26** The guidance is available to officers on the Department's intranet. The Department also has an online training module covering the decision making and natural justice processes. In addition, the Department's Control Division conducts internal roadshow events to promote key guidance, such as the need to document the rationale for decisions. (Key elements from the Department's guidance to staff on calculating the value of an overpayment to be raised are explained in Annex 15B.)
- 15.27** The examination team reviewed the guidance provided to staff to support the decision-making process and concluded that the guidance was comprehensive.

Guidance to claimants

- 15.28** An objective of the Department, under its *Compliance and Anti-fraud Strategy*, is to provide clear and understandable information to customers to minimise error, through publicity campaigns, information leaflets, the Department's website and assistance provided by staff.
- 15.29** Documents signed by or sent to claimants at the application and claim award stages clearly state the need for claimants to advise the Department when their circumstances change. Claim award letters state that a claimant should immediately notify the Department of a change in means. On the State pension non-contributory and carer's allowance scheme, the Department states that changes in means should be notified within three months, but timelines are not specified for other schemes. (Further information on the Department's communication with clients is given in Annex 15C.)
- 15.30** Other targeted interactions with claimants include
- an annual recertification process to verify payment entitlement for recipients of the working family payment, farm assist payment and one-parent family payment
 - the conducting of control reviews
 - continuing eligibility certification letters are issued to claimants of some contributory schemes and child benefit
 - change in circumstance letters are issued to State non-contributory pension claimants.⁵

1 Authorised 'deciding officers' consider entitlement to most of the Department's schemes. A 'designated person' considers entitlement to supplementary welfare allowances. Here, the term deciding officer is used to cover both roles. Where the decision of a deciding officer is appealed, an appeals officer has powers to revise that decision. Once appointed, a deciding officer retains their powers until they leave the Department and, as a result, many of the Department's staff are authorised deciding officers, but may not be acting in that capacity on a day-to-day basis.

2 A revised decision is any decision to allow, disallow, increase or decrease a payment — this chapter focuses on overpayments which result from a decision to disallow or decrease a payment.

3 The guidance was most recently updated in March 2022.

4 Management of customer overpayments and recovery of customer debt provides high-level background information on the raising of overpayments and more detailed information on the recovery of overpayments, the prior version of which was published in January 2020.

5 Change in circumstance letters are not a control review and the claimant is not obliged to respond unless to bring new or previously undeclared facts or evidence to the attention of the Department.

1 MyWelfare (www.mywelfare.ie) is an online portal for welfare services, enabling a claimant to apply for certain benefits, update personal details and order statements.

2 Where the deciding officer is not fully certain that the non-compliance was intentional, the revised decision will be classified as new facts rather than suspected fraud.

3 The rate of appeal is monitored by scheme but not the reason for the appeal. The SWAO Annual Report provides details on individual case studies including cases where an overpayment raised was the reason for the appeal. See *Report on the Accounts of the Public Services 2020*, chapter 10, Management of social welfare appeals

4 The examination excluded control savings recorded on the working family payment scheme from the sample — 17% of all control savings related to this scheme but they resulted in very few overpayments being raised. A control saving is raised on this scheme when a reduced rate is payable after the claimant re-applies for the payment, as each claimant is required to do each year. The examination concluded this scheme was not representative of other schemes and excluded it from the sample.

5 In eight of the 79 cases where no issue is raised, an excess payment was detected but there is no legislative basis for recovering an overpayment (cases relate to an administrative scheme such as household benefits or a benefit scheme where the claimant may be deceased).

6 The guidance to staff is that a note is not required where there is an automated decision process (child benefit and standard continuing eligibility certification) and on medical only reviews.

15.31 The Department stated that automated processes for sending change-in-circumstances letters are being developed during 2023. This will substantially increase the quantity of change-in-circumstances notifications issued to claimants of means-tested payments. Regular notification or reminders are not communicated via the MyWelfare application.¹

15.32 The guidance provided to claimants is comprehensive. However, the Department does not track the number of claimants who received a revised decision after voluntarily providing updated information to the Department, so it is not possible to assess the effectiveness of the communication. The volume of overpayments being detected, in particular due to new facts or evidence coming to light, suggests that many claimants are either unaware of their obligation to inform the Department of changes in a timely manner or claimants are aware but choose to be non-compliant.²

15.33 Each claimant is advised of the right of a review of the decision with the Department and the right to appeal the decision to the Social Welfare Appeals Office (SWAO). The examination found that the number and outcome of overpayment based appeals is not monitored.³

Staff compliance with guidance issued by the Department

15.34 For this examination, we reviewed a random sample of 100 cases (of a total 86,000 cases for 2022) where an excess payment was identified, to assess the extent of compliance with the Department's guidance, in particular in relation to the documentation of the rationale for decisions and the presence of sufficient and appropriate evidence to support the decision.⁴

15.35 The examination team identified an issue with 21% of the claims reviewed.⁵ There were three main areas of concern in these cases.

- An overpayment was not raised in ten cases where the examination team's assessment is that an overpayment should have been considered. In these cases, the rationale of the deciding officer to raise a current date decision rather than a retrospective decision was not documented.⁶
 - In three cases where no overpayment was raised, this was apparently because the value of the overpayment could not be determined as the claimant did not engage with the Department. However, the examination team was able to ascertain, using information available to the Department, that these claimants were still working in the State and therefore the Department could have conducted further work before concluding these cases.
 - In three cases, the disclosed means of the claimants had increased by more than €100 per week.
 - In two cases, an increase in means following the commencement of relevant employment was not disclosed to the Department.
 - In one case where the claimant was in receipt of PUP, no overpayment has yet been raised due to an ongoing PUP-specific overpayment project.
 - In one case, the claimant's means exceeded the current allowable threshold but no overpayment was raised because the means were less than a forthcoming increased threshold.

- In six cases, no overpayment was raised as the claimant was not engaging with the Department and had potentially left the country, so the value of overpayment could not be assessed. The examination team considers that an estimate of the overpayment, with documented calculations as supporting evidence, should be recorded so that recovery of the actual overpayment can be sought if the claimant seeks a payment from the Department in future.
- In three cases, a control saving was raised despite the review being initiated by the claimant.
- In one case, there was a lack of supporting documentation on file to clearly support the basis of the decision. In this case, the correct decision may have been made, but the examination team could not assess the decision as being correct based on the supporting evidence on file.
- In one case, there was a lack of evidence of an excess payment on file, so no control saving should have been raised.

15.36 The examination team noted that some documents stored on the Department's SDM IT system (such as the 'natural justice' notification letter and decision letter issued by certain schemes) were not always visible from the Department's (more modern) BOMI IT system, so a reviewer cannot readily view all relevant documentation together. Furthermore, where the rationale for the conclusion of the deciding officer is not recorded, an independent reviewer of the available information may reach a different conclusion — different levels of importance may be placed on the various details, resulting in the overturning of decisions on review or appeal.

Department's monitoring of decisions made

15.37 The Department stated that deciding officers who are newly appointed or have moved to a new position have each of their decisions reviewed by a manager as part of the training process. The extent to which decisions are reviewed decreases as the officer gains experience.

15.38 The Control Division of the Department also reviews, independent of scheme management, a sample of thirty claims each month across four schemes perceived to represent high-risk (disability allowance, carer's allowance, jobseeker's allowance and one-parent family payment) to assess the extent to which the rationale for not raising an overpayment has been recorded.

Excess payments on estate cases

15.39 Overpayment debt may be attributed to a deceased person due to

- payments after the death of the claimant until the Department became aware of the death¹
- debt that was raised after the death of the claimant as the claimant had not fully disclosed their means while in receipt of a means-tested payment
- debt that had been raised but not fully repaid prior to the death of the claimant.

¹ Where the claimant has a qualifying adult or child dependent, the estate of the claimant may be entitled to continue receiving the payment for up to six weeks.

15.40 The value of overpayments raised following the death of claimants — referred to as 'estate cases' is significant at around €21 million per year (see Figure 15.2).

Payments after death

- 15.41** The General Register Office (GRO) notifies the Department's scheme operational areas daily of registered deaths in the State. However, this information may not be timely because registration can be up to twelve months after the death.¹ As noted above, legislation is being prepared to reduce the allowable period for completion of death registration to 28 days. Separately from the registration of death process, the Department may also be informed of the death by the claimant's relations.
- 15.42** Legislation provides for the Department to recover income support payments made after death directly from the bank account of the claimant into which they were paid.²

Debt raised after death of claimant due to inadequate disclosure of means

- 15.43** The Department stated that the main underlying causes for overpayments in estate cases due to inadequate disclosure of means are
- non-declaration or only partial declaration by claimants of the value of assets, investments or income streams held at the time of their initial pension application
 - non-declaration (or only partial declaration) by claimants of relevant changes in means during the lifetime of their claim.
- 15.44** Where a deceased person has at any time been in receipt of an assistance payment, legislation obliges the personal representative of a deceased claimant to provide the Department with a statement of assets of the deceased's estate at least three months before the planned distribution of any assets.^{3,4} The statements of assets are compared to the claimant's most recently declared means. The personal representative is personally liable to the Department where assets are distributed in advance of that three-month timeframe and the claimant is found to have been overpaid.
- 15.45** The legislation only provides for those claimants who are on means tested payments and makes no similar provision for cases where an overpayment (other than a payment after death) arose on a benefit-related scheme.

1 Civil Registration Act 2004.

2 Section 340 of the Social Welfare Consolidation Act 2005.

3 Section 339 of the Social Welfare Consolidation Act 2005.

4 Once the Department is satisfied that its examination of the deceased's claim is complete and any overpayment is recovered, a letter of clearance will be sent to the representative of the deceased allowing them to distribute assets.

5 The second page of the letter does state that the personal representative must give the Minister written notice of an intention to distribute assets not less than three months before distributing the assets.

- 15.46** The correspondence to the personal representative of the deceased claimant, sent to the most recent postal address of the claimant, outlines the requirement for the statement of assets to be submitted to the Department. The letter wording states "If the late [name of deceased] left a will/estate, the personal representative should forward a copy of the schedule of assets, when available to Estates Section". This wording may not make it sufficiently clear to the personal representative that a debt may be recoverable.⁵

Debt raised but not repaid by the time of death

- 15.47** The Department has powers, as noted above, in relation to the recovery of debt from deceased claimants of assistance payments. However, the legislation does not place the same obligation on the personal representative of claimants who received only benefit payments. The examination team, when reviewing claims for Chapter 16 on the recovery of overpayments, noted cases where existing debt arising from a benefit payment was not reported to the deceased claimant's personal representative and was subsequently written-off.

15.48 The Department's ability to recover overpayments from a deceased claimant's estate is limited where the personal representative does not engage with the Department as the Department cannot easily identify who the personal representative is — some such cases have also resulted in debt being written-off. It is the Department's policy to check probate records before writing off debt, but the 'small estates procedure' allows estates valued at less than €25,000 to be administered without the need for a grant of probate or grant of administration, so there may not be a public record of the personal representative.

Use of probate information to identify overpayments to estate beneficiaries

15.49 Means tested social welfare payments consider a claimant's total assets in determining payment entitlement. Where a claimant of a means tested payment receives an inheritance from an estate, there may be a new risk of overpayment to that claimant.

15.50 The statement of assets submitted by the personal representative of a deceased claimant does not typically provide details of the beneficiaries.¹ As a result, the Department does not receive information necessary to assess whether beneficiaries of that inheritance are also recipients of a means-tested payment and, therefore, at greater risk of an overpayment.

15.51 The Department stated that where the beneficiaries of a will are evident from the submitted documents, the Department must operate within GDPR provisions and therefore the use of this information for other purposes, including control of overpayments, is limited and it is not the Department's policy to use the information for such purposes.

Conclusions and recommendations

15.52 The value of overpayments raised in recent years has been around €100 million to €125 million annually. The value of Vote-funded overpayments raised has declined, but this was offset by the Department's work to identify pandemic unemployment payment (PUP) scheme overpayments, resulting in an increase in overpayments raised in schemes funded by the SIF.

15.53 Where the Department's control activities identify an excess payment, the Department calculates a control saving to estimate the impact of its work. The Department does not set a target for the value of overpayments to be raised each year. However, it does set a target for the value of control savings recorded, which incorporates the value of overpayments raised through control work initiated by the Department. A control saving is not recorded where the review is initiated by a claimant.

15.54 The value of overpayments being raised, as a proportion of the value of control savings, shows considerable variation for various schemes. This may reflect different scheme characteristics and the impact of different multipliers being applied to different schemes. However, it may also reflect the application of discretion afforded to deciding officers in different scheme areas. The Control Division reviews thirty claims each month to check whether the rationale for not raising an overpayment is being recorded, but there are limited other processes to identify inconsistencies in decision-making by deciding officers.

¹ This information is stated on returns to the probate office.

Recommendation 15.1

The Department should increase its analysis of claims to ensure that determinations by deciding officers, while independent, are consistent between schemes.

Accounting Officer's response

Agreed.

It is important that schemes that rely on discretion being afforded to deciding officers should retain that discretion and it would be inappropriate to seek to fetter that discretion.

Risk management/quality control is typically approached on a three lines of defence basis

- The first line of defence is the quality of training and guidance provided to staff. The Department already invests heavily in this.
- The second line of defence is quality control and checking by local/scheme management. Towards that end management in each scheme area routinely review a sample of all decisions as a quality control measure on an ongoing basis.
- The third line of defence is external oversight. The Department's central Control Division already sample checks cases as does the Department's Internal Audit function.

To further improve decision quality, Control Division will, in conjunction with the Decisions Advisory Office, remind relevant scheme owners to monitor the quality of decisions to ensure adherence to agreed policies and guidelines including Guidelines on the Management of Customer Overpayments and Recovery of Customer Debt and *Guidelines on Revised Decisions and their Date of Effect*.

Forthcoming changes in the operation of the appeals function, whereby the Appeals Office will be required to provide the Department with reasons why decisions are overturned will also assist in improving decision quality. (At present reasons for appeal decisions are only required to be provided to appellants in cases where a decision is upheld.)

Timeline for implementation

From now.

15.55 The rate at which risk-targeted control reviews detect excess payments varies, as is to be expected. Targeted reviews are significantly more effective on some schemes than randomly selected reviews. The analysis indicates that the risk-targeted review is much more effective on child benefit and jobseeker's allowance schemes than on the non-contributory State pension and the one-parent family payment.

15.56 The guidance provided to staff is comprehensive. However, each deciding officer exercises her/his own judgement when deciding a claim. Claimants can appeal these decisions, so the documentation of the deciding officer's rationale for decisions is critical, especially in complex cases.

- 15.57** The guidance provided to claimants clearly states, on application forms and subsequent award letters, the responsibility of claimants to inform the Department of changes in their circumstances (for example, starting a new job or an increase in employment income). However, given the ongoing volume of overpayments detected each year due to the Department discovering new facts or evidence, it is clear that many claimants are failing to inform the Department when such changes occur. This may be due to a lack of awareness of their obligations or claimants being aware of their obligation but choosing to be non-compliant.
- 15.58** The Department's plan to automate the process for sending 'change in circumstance' reminder letters to claimants in receipt of means-tested payments may improve claimant's engagement in that regard. The Department does not currently utilise the MyWelfare application to remind claimants of their obligations to inform the Department of a change in circumstances.

Recommendation 15.2

The Department should seek further opportunities to engage with claimants to ensure claimants are fully aware of their responsibilities to notify the Department of any relevant changes in circumstances. The potential for electronic reminders through the MyWelfare application should be considered to automate the process and avoid postal costs.

Accounting Officer's response

Agreed.

The Department is always conscious of the need to balance control activity against the need to provide a quality service to people and to not unnecessarily frustrate a person's entitlement to a service or call into question their continued access to a service through overly intrusive control activity. Accordingly, in accepting this recommendation the Department will seek to do so in a manner that balances the value of additional 'reminders' against the need to ensure that we do not unnecessarily call into question a person's entitlement to a benefit or create concerns/fears for people who are dependent on our payments, the overwhelming majority of whom are compliant with all requirements.

Timeline for implementation

From now.

- 15.59** In some communications, the Department requests that claimants notify the Department of changes in circumstance within three months. Allowing this much time could result in three months of overpayments that are either a loss to the State or which the claimant must repay, depending on whether a current date or retrospective decision is applied. In other communications, the Department does not give a timeline within which the claimant must notify it of a change in circumstance.

Recommendation 15.3

The Department should require all its communications include a timeline when informing claimants of their responsibility to notify the Department of changes in circumstances that may affect the claimants' entitlements. The length of time provided should be minimised to limit the risk of overpayments.

Accounting Officer's response

Agreed.

In line with legislation, and subject also to the need to balance control activity with a customer service ethos, claimants will be reminded of their responsibility to notify the Minister of any change in circumstances that may affect entitlement as soon as practicable.

Timeline for implementation

From now.

- 15.60** The Department is exploring steps to improve scheme controls by reducing the time permitted to register a death in the State (thereby reducing the risk of ineligible payments being made after death), increasing the use of real-time Revenue data and increasing the number of letters to claimants advising them of their obligation to advise the Department of changes in circumstances.
- 15.61** Work by the Control Division to encourage the documentation of the rationale for decisions is ongoing. The examination team reviewed a sample of 100 cases where an excess payment was detected in 2022 and had concerns about the case treatment in 21 cases, with
- a lack of documentation for the rationale for a decision not to raise an overpayment (ten cases)
 - no overpayment being recorded despite underlying evidence, on the basis the claimant was not engaging with the Department and had potentially left the country (six cases)
 - a control saving being raised despite the review being initiated by the claimant in three cases
 - a lack of supporting evidence for the decision made in one case
 - a lack of evidence to support a control saving being raised in one case.

Recommendation 15.4

The Department should continue its efforts to ensure that sufficient and appropriate evidence and documentation of decision rationale is recorded for each excess payment identified and that records clearly identify a potential overpayment to be investigated if a claimant were to contact the Department in the future.

Accounting Officer's response

Agreed.

The requested checks are already in place and the Department will continue to monitor compliance.

- 15.62** The value of overpayments detected on estate cases continue to be significant. Chapter 16, in relation to the recovery of overpayments, identified a significant proportion of estate-related debt being written off. Where the Department does not know who the deceased claimant's personal representative is, the recovery of overpayments is challenging. Legislation requires the personal representative for deceased claimants of assistance payments to submit a statement of assets to the Department, but does not provide for the same requirement in relation to claimants of benefit payments.

Annex 15A Control savings estimates

The Department of Social Protection calculates control savings by applying the following multipliers to the weekly or monthly excess payment identified, or in some cases, applying a flat rate per case. The multiplier value is typically higher where payment is terminated than when a reduction is made in the claimant's payment.

Scheme area	Termination of payment	Reduction in payment
Weekly payment schemes		
Carers		
Carer's allowance	136	52
Carer's benefit	36	52
Free schemes and allowances		
Fuel allowance (short term & supplementary welfare allowance)	16	
Fuel allowance (non-pension schemes)	26	
Fuel allowance (pensions)	68	
Living alone allowance	136	
Illness schemes		
Disability allowance	136	52
Disablement benefit	136	52
Illness benefit (final cert)	32	
Illness benefit (temporary suspensions)	9	
Medical review capables (illness benefit)	24	
Invalidity pension	136	52
Occupational injury benefit	32	52
Jobseeker schemes		
Jobseeker's allowance	52	52
Jobseeker's benefit	26	26
Part-time job incentive scheme	52	52
Back to education allowance	32	
Back to work allowance	32	32
Farm assist	52	52
Maternity benefit		
Maternity benefit	4	
One parent family		
One parent family payment	136	52
Pensions		
Widow(er)'s non-contributory pension/ deserted wife's (benefit/allowance)	136	52
Widow's, widower's or surviving civil partner's contributory pension	136	52
State pension contributory	136	52
State pension non contributory	136	52
Guardians contributory & non contributory	136	52
Blind pension	136	52

Scheme area	Termination of payment	Reduction in payment
Supplementary welfare allowance		
Supplementary welfare allowance (BASI)	32	32
Supplementary welfare allowance (rent & other supplements)	52	52
Working family payment		
Working family payment (was family income supplement (FIS))	52	52
Monthly payment schemes		
Child-related benefits		
Child benefit	34 (months)	12 (months)
Domiciliary care allowance	13 (months)	
Flat-rate payment schemes		
Carers		
Carer's support grant (previously called the respite care grant) (no multiplier)		€1,700
Household benefit and free travel		
Household benefit (no multiplier)		€580
Free travel (no multiplier)		€100

Source: Department of Social Protection

Annex 15B Guidance about overpayments provided to staff of the Department

The Decisions Advisory Office guidance about raising an overpayment issued to Department staff is that a revised payment decision should generally result in an overpayment being raised (that is, be retrospective) where the person could reasonably be expected to have been aware of the relevant facts, the person could reasonably be expected to have notified the Department of the position, and there was no error on the part of the Department.

The calculation of the amount to be recovered as an overpayment is limited to the amount of money received by the claimant. There is no minimum value for which an overpayment debt can be raised.

The guidance refers to the following circumstances where an overpayment should not be raised

- payment of supplementary welfare allowance while transitioning from receipt of a social welfare scheme to receipt of income from employment
- uncashed or uncollected payments
- an inter-scheme adjustment when the claimant is moving from one scheme to another, even if the new rate is less than the prior rate.

Calculation of overpayment value

The calculation of the amount to be recovered as an overpayment is limited to the amount of money received by the claimant. There is no minimum value for which an overpayment debt can be raised.

Key steps when calculating the value of an overpayment include determining the reason for the excess payment and the date at which the claimant's circumstances changed or a claimant's entitlement to a payment that has ended.

A claimant must be informed of a revised decision by a letter that sets out which condition(s) of the legislation were not met, the reason the condition was not met, the date from which the retrospective decision takes effect and the amount of the overpayment to be recovered. A claimant has a right to request the Department review the decision and may also appeal the decision to the Social Welfare Appeals Office.¹

¹ See *Report on the Accounts of the Public Services 2020*, chapter 10 Management of social welfare appeals.

² This does not apply where the overpayment was raised as a result of suspected fraud.

An overpayment amount may be reduced to reflect where an overpayment is detected on one scheme but the claimant was entitled to a payment under a different scheme.²

Annex 15C Guidance about overpayments provided to claimants

At claim award stage

At the application stage, claimants are required to declare “I understand that if any of the information I provide is untrue or misleading or if I fail to disclose any relevant information, that I will be required to repay any payment I receive from the Department and that I may be prosecuted. I undertake to immediately advise the Department of any change in my circumstances which may affect my continued entitlement.”

Claimants are also informed in all claim award letters of their responsibility to inform the Department when their circumstances change. For example, on assistance schemes such as the jobseeker’s allowance, the award letter draws attention to changes in circumstances that may impact on entitlement, such as changes to employment or an increase in means of the claimant or spouse/civil partner/cohabitant, changes related to a qualifying child or adult, or the claimant commencing education.

For claim award letters on benefit schemes such as the contributory State pension, claimants are provided with a list of events that the claimant is obliged to notify the Department of; for example, where the claimant is no longer supporting a qualifying adult. Claimants are informed that a failure to report such changes may result in an overpayment that is recoverable by the Department.

After an overpayment has been detected

The Department’s policies and procedures, set out by the Decisions Advisory Office, include a defined process for communicating with a customer after an excess payment has been detected.

Department staff prepare a ‘natural justice’ letter which aims to explain the circumstances around a proposed revised payment decision, and to allow the claimant an opportunity to comment. The Department stated that each letter is bespoke (rather than template based) as the details are different in each case. A natural justice letter will not be issued where the new information used in the revised payment decision was provided by the claimant.

The Department has developed a template for the decision letter which issues to a claimant after the natural justice process is complete, advising the claimant of the decision of the Department, the value of the overpayment and their right of appeal. The Department’s debt receipt IT system automatically issues a separate letter after the 21 days setting out the repayment process.

Each claimant is provided with an opportunity to propose a higher or lower repayment rate to reflect their personal circumstances, in which case a manual recovery plan is created.

The decision letter template advises each claimant that debt will remain until it is paid in full and recovery may include reductions of any future social welfare entitlements, including the State pension. The Department advises that it may also have a claim on the estate of a deceased person who has a social welfare debt.

