

R7-2-1509. Misuse of Funds

A. Based on a finding that a parent knowingly misuses funds, the Department shall temporarily suspend the account and provide notice to the parent. The notice shall:

1. Include the reason for the temporary suspension and a detailed description of the disallowed expense; and
2. Provide the parent 10 days, not including weekends, to either:
 - a. Present documentation that demonstrates the expense is allowable or that the parent was victim to identity theft or fraud; or
 - b. Agree to repay the amount.

B. The Department shall review the documentation submitted pursuant to R7-2-1509(A)(2)(a) within five days of receipt to determine if the expense is allowable or if the parent was victim to identity theft or fraud. If the Department determines the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension.

C. If the Department determines the documentation fails to demonstrate the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall provide notification to the parent that the amount must be repaid. The Department shall withhold the disbursement of any additional ESA funds until repayment is made. The Department may agree to a gradual repayment plans at the request of the parent and shall reinstate additional ESA funding once repayment has begun. The Department may remove a parent from the Program that fails to repay an amount or agree to a repayment plan.

D. Once a parent agrees to a gradual repayment plan or repays an amount pursuant to R7-2-1509(A)(2)(b) or R7-2-1509(C), the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension as follows:

1. Within one day, if the repayment is made by cashier's check or money order; or
2. Within seven days, if repayment is made by personal check.

E. Pursuant to R7-2-1511, a parent who has been removed from the Program pursuant to this section may file a written request for a hearing within 30 days after being served the notice of removal.

F. The Department shall refer a case to the Board if a parent does not file an appeal pursuant to R7-2-1511 and either:

1. Fails to repay the amount of a disallowed expense, or
2. Fails to make a payment on a gradual repayment plan.

G. On a finding of misuse of monies, the Board may refer the case to the Attorney General who may bring an action to recover the monies. Upon obtaining evidence of fraudulent use of an account, the Board may refer the case to the Attorney General for the purpose of a criminal investigation.

H. A parent or qualified student is not eligible to enroll a qualified student in the ESA Program if that parent was an account holder on an account that was referred to the Attorney General for misuse of monies unless the parent's expense was subsequently found to be allowable or the parent was the victim of identity theft or fraud.

I. If a parent commits fraud, the Department shall withhold funds from all accounts in the parent's name and close the accounts.