



UNDERSTANDING THE OVERPAYMENT WAIVER PROCESS

What is an Overpayment & Who is Eligible for a Waiver?



Need Help? Contact VOLS at (347) 521 - 5720

What is an Overpayment?

Overpayments are payments of unemployment insurance benefits that were incorrectly paid to the claimant, most often through no fault of their own. The Department of Labor will inform a claimant if the Department has reason to believe the claimant was overpaid. At that point, the claimant can take action, such as request a hearing or a waiver.

What is a Waiver Request?

A waiver request is a request to be forgiven for an overpayment of benefits because of a financial hardship.* Certain federal programs permit claimants who have received an overpayment of benefits to apply for a waiver from repayment if:

1. The claimant was not at fault for the overpayment; and
2. Recovery of the overpayment would be contrary to equity and good conscience.

**Please know that even if you submit a waiver, you may still receive collection notices.*

What is "Contrary to Equity and Good Conscience?"

When determining if repayment of the overpayment would be "contrary to equity and good conscience," the primary consideration is whether repayment of the overpayment will cause the claimant extraordinary financial hardship, such as an inability to pay for shelter, food, and/or medicine.

REMINDER:

This waiver is ONLY FOR FEDERAL BENEFITS. If you were paid PUA, PEUC or PUC, this applies to you.

This waiver DOES NOT apply for UI/Unemployment Insurance/State Benefits.

If state benefits were overpaid, claimants need to enter a repayment plan (which, at max, is 36 months).

Determining Fault:

When determining if the claimant was at fault for the overpayment, the following factors are considered:

1. Whether or not the claimant made a material statement or representation on the application for benefits that resulted in the overpayment and that the claimant knew, or should have known, was false;
2. Whether or not the claimant failed, or caused another person to fail, to disclose a material fact in connection with the application for benefits that resulted in the overpayment and the claimant knows, or should have known, was material;
3. Whether or not the claimant knew, or could have been expected to know, that they were not entitled to the payment of benefits;
4. Whether or not the overpayment resulted directly or indirectly from an action or omission by the claimant which was known and was erroneous, inaccurate, or otherwise wrong; and
5. Whether or not there was a determination of fraud associated with the payment of benefits.

Federal Programs that Permit Claimants to Apply for a Waiver Include:

- Federal Pandemic Unemployment Compensation (FPUC)
- Pandemic Emergency Unemployment Compensation (PEUC)
- Pandemic Unemployment Assistance (PUA)
- Lost Wages Assistance
- Mixed Earners Unemployment Compensation
- 2008 Emergency Unemployment Compensation (EUCo8)

How to Apply for a Waiver:

You may receive a DocuSign email with a waiver request application. If you do not receive the DocuSign waiver request application, you can request the waiver by messaging us through your NY.gov online messaging account or by mail to:

NYS Department of Labor
PO Box 15131
Albany, NY 12212-5131

If submitting the request through your NY.gov online messaging account, you must select "Waiver" for the subject line and include your Social Security number and current email address in the email message.

If submitting the request through mail, please include your Social Security number and current email address on the request.

When you are filling out the waiver form, you should fill it out to the best of your ability. The financial information is based upon your current circumstances. The Department of Labor does **not** require sensitive information like bank account numbers. When listing expenses, it's okay to make **reasonable estimates**.

For more information on the overpayment waiver process, please visit <https://dol.ny.gov/overpayment-waiver-and-appeal-process>.

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