

Overpayment of Benefits 失业金的超额支付

What is an overpayment? 什么是“超额支付”?

An overpayment occurs when you receive Unemployment Insurance benefits that you were not entitled to. This could occur for a number of reasons. These may include:
当您没有资格获得失业保险金但依然获得失业保险金时，就会发生超额支付。发生这种情况的原因有很多，其中可能包括：

- You made a mistake when claiming weekly benefits.
您在认领每周失业金时犯了错误。
- You were not ready, willing and able to work.
您还没有准备好、不愿意也不能够工作。
- You did not complete the required work search activities for a week or weeks.
您有一周或几周没有按规定完成求职活动。
- You knowingly gave the DOL false or misleading information when filing a claim or claiming weekly benefits.
在申请或认领每周失业金时，您故意向劳工部提供虚假或误导性信息。

What if I receive an overpayment determination?

如果我收到超额支付裁定怎么办？

If you were overpaid, you will receive a written notice in the mail. The Notice of Determination to Claimants for Overpayment gives instructions on how to send a check or money order to pay the total amount due. It also gives instructions on how to request a payment plan. Overpaid benefits and monetary penalties can also be collected by taking your state or federal tax refund. Additionally, if you collect benefits in the future, those benefits can be offset to recover any remaining overpayment that you have not repaid. Any partial payment received from you will be applied first to any monetary penalties and then to the balance of the overpayment. Failure to pay

the monetary penalty may result in legal action against you. If you disagree with the overpayment determination, you have the right to request a hearing.

如果您收到了多付的失业金，您会以邮件形式收到一封书面通知。《发给认领人的超额支付裁定通知书》会提供说明，解释如何通过寄支票或汇票的方式支付全部应付款项，以及如何申请分期付款计划。超额支付的失业金和罚款也可以通过收取您的州或联邦退税的方式来收取。此外，如果您在未来领取失业金，这些失业金可以用于抵消任何您尚未偿还的超额支付余额。向您收取的任何部分款项将首先用于支付罚款，然后用于支付超额支付的余额。如果您未能支付罚款，可能会导致对您采取法律行动。如果您不同意该超额支付裁定，您有权要求举行听证会。

What is a monetary penalty?

什么是“罚款”？

A monetary penalty is assessed if the Department of Labor determines that you willfully made false statements or representations, or purposely withheld pertinent information, in order to obtain benefits.

如果劳工部认定您为了获得失业金而故意做出虚假表述或陈述的、或故意隐瞒相关信息的，您将被处以罚款。

Can you appeal the overpayment determination?

您能对超额支付裁定提出上诉吗？

Yes, if you disagree with the overpayment determination, you have the right to request a hearing. The hearing will take place over the phone. The hearing will be conducted by an impartial judge who is employed by the Unemployment Insurance Appeal Board. If you are present at the hearing and lose all or part of the case, you may file an appeal to the Appeal Board. If the Appeal Board does not rule in your favor, you have 30 days from the date of the Appeal Board's decision to apply to the Appeal Board for a reconsideration of the decision, or appeal to the Appellate Division of the State Supreme Court, Third Department. The DOL will try not to collect payments from you while your appeal is in progress. Any payment you made will be refunded if you are found eligible for benefits.

是的，如果您不同意超额支付裁定，您有权要求举行听证会。听证会将通过电话的方式进行。听证会将由一名受雇于失业保险上诉委员会的公正的法官进行主持。如果您出席听证会，且全部或部分败诉，您可向上诉委员会提出上诉。如果上诉委员会没有做出对您有利的裁决，您可以在上诉委员会作出裁定之日起 30 天内向上诉委员会申请复议，或向州最高法院第三分部上诉部提起上诉。在您上诉期间，劳工部将尽量不向您收取款项。如果根据最终裁定您符合领取失业金的条件的，您之前所支付的款项将会被退还。

What is the difference between an overpayment and a monetary penalty?

“超额支付”和“罚款”的区别是什么？

An overpayment is benefits you were not entitled to.

A monetary penalty is a fine assessed on the full amount of overpaid benefits when the Department of Labor determines that you willfully made false statements or representations, or purposely withheld pertinent information, in order to obtain benefits.

“超额支付”是指您没有资格获得的失业金。

“罚款”是指当劳工部认定您为了获得失业金而故意做出虚假表述或陈述，或故意隐瞒相关信息时，根据超额支付的失业金总额评估得出的罚款。

What is a forfeit day penalty?

什么是“没收日罚款”？

A forfeit day (or days) are days in the future for which you cannot receive Unemployment Insurance benefits. Forfeit days are assessed if you willfully made a false statement or representation to get benefits. A forfeit day penalty can be for one day, or it can be for several days. For every forfeit day that is assessed, you lose 25% of your benefits for that week. If you have four forfeit days, you would receive no benefits for that week. This is because there is a maximum of four effective days of benefits in a week. If you have more than four forfeit days, the additional forfeit days are carried over to the following week.

“没收日”是指未来您不能领取失业金的天数。如果您故意作出虚假表述或陈述以获得失业金的，将被处以没收日的处罚。没收日的处罚可以是一天，也可以是几天。每没收一日，您将失去当周 25% 的失业金。如果您有四天没收日，那么那一周您将不会收到任何失业

金，因为一周最多能有四天的有效失业金。如果您有超过四天的没收日，额外的没收日将会计入下一周。

How can a forfeit day penalty affect any future claims I may file?

没收日的罚款会如何影响我日后可能提出的失业金申请？

If your forfeit day penalty has not expired, any payments you may be eligible for on future claims will first be used to satisfy your forfeit day penalty. This will reduce the amount of money you receive in future UI benefit payments.

如果您的没收日处罚尚未结束，那么您在未来失业金申请中可能有资格获得的任何失业金将被首先用于抵扣您的没收日罚款。这将减少您在未来收到的失业金金额。

How do I request a payment plan?

我应该如何申请分期付款计划？

致电：

收款组电话 800-533-6600

或

致信：

Unemployment Insurance Division

NYS Department of Labor

P.O. Box 1195

Albany, NY 12201

请确保在申请时只写社安号的最后四位数字。

Common Overpayment Issues

超额支付的常见问题

Voluntary Quit

自愿辞职

The Unemployment Insurance Law requires that a claimant who voluntarily separates from employment is disqualified if the separation is "without good cause. The term "voluntary separation" as used in the statute means leaving employment of one's own free will. It includes resignations other than those submitted at the employer's insistence and failure to return to work following a temporary layoff or leave of absence. A claimant discharged because of volitional acts which leave the employer no choice but to terminate the employee, pursuant to law, governmental regulations or contract is also considered to have voluntarily separated from employment.

《失业保险法》规定，除非有“正当理由”，自愿离职的申请人没有资格获得失业金。法规中所使用的“自愿离职”一词是指在个人自愿的情况下离开工作岗位，包括辞职（在雇主坚持下提出的辞职以及在临时裁员或休假后未能重返工作岗位的除外）。因雇主根据法律、政府法规或合同的规定，不得已终止雇佣关系而被解雇的申请人，也被视为自愿离职。

Once it is established that a claimant's separation is voluntary, the judge must determine whether the circumstances of the separation were with or without good cause.

一旦认定申请人的离职是自愿的，法官必须确定离职情形是否有充分的理由。

If the separation is voluntary, it must then be determined whether the reason for the claimant's separation is compelling. The ALJ will analyze whether you took reasonable steps to protect your employment prior to quitting. This is because although a claimant may have a compelling reason to leave employment, you are required to take reasonable steps to protect your employment prior to leaving and must give your employer a reasonable opportunity to address any concerns.

如果离职是自愿的，则必须认定申请人离职的理由是否令人信服。行政法法官会分析您在离职前是否采取了合理的措施来保护您的工作，这是因为尽管申请人可能有令人信服的理由离职，但在离职前，您必须采取合理的步骤来保护您的工作并必须给雇主一个合理的机会来解决问题。

Statutory Good Cause

法定正当理由

In addition to other circumstances that may be found to constitute good cause, the statute sets forth specific situations which provide good cause to voluntarily separate from employment: where circumstances arise which would have allowed the claimant to refuse the employment when first offered as provided for in Labor Law §593.2; 4 where a collective bargaining agreement or written employer plan permits an employee to elect to take a temporary layoff when there is a slowdown in work and the employer has consented to that election; where the claimant separates from employment due to a compelling family reason, including, but not limited to, where a claimant reasonably believes that continued employment would jeopardize his or her safety or the safety of any member of the immediate family due to domestic violence; and where the claimant resigns in order to provide care to an ill or disabled member of the immediate family. A claimant is disqualified from receiving benefits if the separation from employment was due to the claimant's marriage.

除了可能被认为构成正当理由的其他情况外，法规还规定了构成自愿离职的正当理由的具体情况：根据《劳动法》593.2（四）条的规定，在集体协商协议或者用人单位书面计划允许雇员在工作放缓时选择临时裁员，且雇主同意的情况下，申索人可以拒绝首次提供的就业；申请人因令人信服的家庭原因而离职的，包括但不限于，申索人合理地认为继续就业将因家庭暴力的原因而危及其或其任何直系亲属的安全的；申请人为照顾患病或残疾的直系亲属而辞职的。如果申请人失业是由于申请人的婚姻造成的，则该申请人没有领取失业金的资格。

If the DOL determines that you voluntarily quit your job without "good cause" depending on the facts of your case, you may argue that:

- You had "good cause" to quit under one of the qualifying reasons
- You did not quit your job

如果劳工部根据您的案件事实，认定您在没有“正当理由”的情况下自愿辞职，您可以提出以下论点辩驳：

- 您是在符合上述条件之一的情况下辞职，因此有“充分的理由”
- 您没有辞职

Misconduct

不当行为

The term “misconduct” is not defined in the statute however, the Appellate Division has held that “misconduct” is behavior that is detrimental to the employer’s interests in violation of a reasonable work condition. The claimant’s actions need not be willful to rise to the level of misconduct. Misconduct may be found in cases of gross negligence, indifference, or a pattern of recurrent carelessness. Circumstances which would not justify the imposition of a disqualification for misconduct, include: mere inefficiency, inadequate performance as the result of inability or incapacity, inadvertence or ordinary negligence in isolated instances, or good faith errors in judgment or discretion. Board and Court decisions have indicated that “misconduct” may include acts or omissions off the job as well as on the job, if adverse effect on the employer is demonstrated. Additionally, there must be a direct relation in point of time between the final incident and the termination, and the final incident must be proved to be the direct cause of termination.

法规中没有对“不当行为”一词进行定义，然而，上诉法庭认定其为违反合理的工作条件而损害雇主利益的行为。申请人的行为不必是故意的才构成不当行为。不当行为可能出现在严重疏忽、漠不关心或反复出现的疏忽中。不能因不当行为而被取消失业金资格的情况包括：纯粹的效率低下、因缺乏能力或不具行为能力而表现不佳、个别情况下的无意或一般疏忽，或在判断或裁量方面的善意错误。劳工部和法院的裁决表明，“不当行为”如果对雇主产生了不利影响的，也可能包括工作之外的行为或不作为。此外，最终事件与终止雇佣之间必须在时间点上有直接关系，最终事件必须被证明是终止雇佣的直接原因。

The Statute

法规

- Labor Law §593 (3) addresses the issue of misconduct. It states: “No days of total unemployment shall be deemed to occur after a claimant lost employment through misconduct in connection with his employment until he or she has subsequently worked in employment and earned remuneration at least equal to ten times his or her weekly.” Labor Law §527 indicates that a

claimant benefit rate cannot use wages from employment that ended due to misconduct in establishing a claimant for benefits.

- 《劳动法》第 593(3)条提到不当行为的如下内容：“在申请人因与其工作有关的不当行为而失去工作后，在他或她随后进行工作并获得至少等于他或她每周 10 倍的报酬之前，失业天数将不被计入。”《劳动法》第 527 条指出，在确定申请人的失业金时，不能使用因不当行为而被解雇的工作的工资来计算申请人的失业金时薪。

If the DOL determines that you were fired due to misconduct, depending on the facts of your case, you may argue that:

- Your actions did not rise to the level of misconduct
- For criminal conduct, you may argue that the alleged conduct does not have a sufficient nexus to your job
- You did not know that your actions could lead to termination/were misconduct
- The actions of misconduct were not sufficiently tied to your termination, i.e., the misconduct occurred months before termination, or you were terminated for other reasons

如果劳工部认定您是因为不当行为而被解雇的，取决于您的案件事实，您可以辩称：

- 您的行为没有上升到不当行为的程度
- 对于犯罪行为，您可以辩称被指控的行为与您的工作没有足够的关联
- 您不知道您的行为可能导致解雇或构成不当行为
- 不当行为的行为与您的解雇没有充分的联系，即不当行为发生在解雇前几个月，或者您因其他原因被解雇

Additional Resources

额外资源

- UIAB Bench Manual: <https://uiappeals.ny.gov/bench-manual>
This can be used to find more information on your particular legal issue, and assist you in formulating your legal argument.
这可以用来搜索更多关于您特定法律问题的信息，并帮助您形成您的法律论点。
- Appeal Decisions: <https://uiappeals.ny.gov/searchdecisions>
This can be used to search for cases similar to yours in which the appeal board decided in the claimants favor. You may cite these cases as grounds for a favorable decision in your case. Although the ALJ is not bound by the appeal boards decision, it can be used as persuasive evidence in your favor.

这可用于搜寻上诉委员会作出的有利于申请人的类似案件。您可以引用这些案例作为对您有利的判决的依据。虽然行政法官不受上诉委员会裁决的约束，但它可以被用作对您有利的有说服力的证据。