

Overpayment of Benefits 失業金的超額支付

What is an overpayment? 什么是“超額支付”？

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:
當您沒有資格獲得失業保險金但依然獲得失業保險金時，就會發生超額支付。發生這種情況的原因有很多，其中可能包括：

- You made a mistake when claiming weekly benefits.
您在認領每周失業金時犯了錯誤。
- You were not ready, willing and able to work.
您還沒有準備好、不願意也不能夠工作。
- You did not complete the required work search activities for a week or weeks.
您有一周或幾周沒有按規定完成求職活動。
- You knowingly gave the DOL false or misleading information when filing a claim or claiming weekly benefits.
在申請或認領每周失業金時，您故意向勞工部提供虛假或誤導性信息。

What if I receive an overpayment determination?

如果我收到超額支付裁定怎麼辦？

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業金，您會以郵件形式收到一封書面通知。《發給認領人的超額支付裁定通知書》會提供說明，解釋如何通過寄支票或彙票的方式支付全部應付款項，以及如何申請分期付款計劃。超額支付的失業金和罰款也可以通過收取您的州或聯邦退稅的方式來收取。此外，如果您在未來領取失業金，這些失業金可以用于抵消任何您尚未償還的超額支付余額。向您收取的任何部分款項將首先用于支付罰款，然後用于支付超額支付的余額。如果您未能支付罰款，可能會導致對您採取法律行動。如果您不同意該超額支付裁定，您有權要求舉行聽證會。

What is a monetary penalty?

什麼是“罰款”？

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.

如果勞工部認定您為了獲得失業金而故意做出虛假表述或陳述的、或故意隱瞞相關信息的，您將被處以罰款。

Can you appeal the overpayment determination?

您能對超額支付裁定提出上訴嗎？

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，如果您不同意超額支付裁定，您有權要求舉行聽證會。聽證會將通過電話的方式進行。聽證會將由一名受雇于失業保險上訴委員會的公正的法官進行主持。如果您出席聽證會，且全部或部分敗訴，您可向上訴委員會提出上訴。如果上訴委員會沒有做出對您有利的裁決，您可以在上訴委員會作出裁定之日起 30 天內向上訴委員會申請複議，或向州最高法院第三分部上訴部提起上訴。在您上訴期間，勞工部將盡量不向您收取款項。如果根據最終裁定您符合領取失業金的條件的，您之前所支付的款項將會被退還。

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

“超額支付”和“罰款”的區別是什麼？

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.

“超額支付”是指您沒有資格獲得的失業金。

“罰款”是指當勞工部認定您為了獲得失業金而故意做出虛假表述或陳述，或故意隱瞞相關信息時，根據超額支付的失業金總額評估得出的罰款。

What is a forfeit day penalty?

什麼是“沒收日罰款”？

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.

“沒收日”是指未來您不能領取失業金的天數。如果您故意作出虛假表述或陳述以獲得失業金的，將被處以沒收日的處罰。沒收日的處罰可以是一天，也可以是幾天。每沒收一日，您將失去當周 25% 的失業金。如果您有四天沒收日，那麼那一周您將不會收到任何失業

金，因為一周最多能有四天的有效失業金。如果您有超過四天的沒收日，額外的沒收日將會計入下一周。

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

沒收日的罰款會如何影響我日後可能提出的失業金申請？

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.

如果您的沒收日處罰尚未結束，那麼您在未來失業金申請中可能有資格獲得的任何失業金將被首先用于抵扣您的沒收日罰款。這將減少您在未來收到的失業金金額。

How do I request a payment plan?

我應該如何申請分期付款計劃？

致電：

收款組電話 800-533-6600

或

致信：

Unemployment Insurance Division

NYS Department of Labor

P.O. Box 1195

Albany, NY 12201

請確保在申請時只寫社安號的最後四位數字。

Common Overpayment Issues

超額支付的常見問題

Voluntary Quit

自願辭職

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.

《失業保險法》規定，除非有“正當理由”，自願離職的申請人沒有資格獲得失業金。法規中所使用的“自願離職”一詞是指在個人自願的情況下離開工作崗位，包括辭職（在雇主堅持下提出的辭職以及在臨時裁員或休假後未能重返工作崗位的除外）。因雇主根據法律、政府法規或合同的規定，不得已終止雇傭關係而被解雇的申請人，也被視為自願離職。

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.

一旦認定申請人的離職是自願的，法官必須確定離職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.

如果離職是自願的，則必須認定申請人離職的理由是否令人信服。行政法法官會分析您在離職前是否採取了合理的措施來保護您的工作，這是因為盡管申請人可能有令人信服的理由離職，但在離職前，您必須採取合理的步驟來保護您的工作並必須給雇主一個合理的機會來解決問題。

Statutory Good Cause

法定正當理由

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.

除了可能被認為構成正當理由的其他情況外，法規還規定了構成自願離職的正當理由的具體情況：根據《勞動法》593.2（四）條的規定，在集體協商協議或者用人單位書面計劃允許雇員在工作放緩時選擇臨時裁員，且雇主同意的情況下，申索人可以拒絕首次提供的就業；申請人因令人信服的家庭原因而離職的，包括但不限于，申索人合理地認為繼續就業將因家庭暴力的原因而危及其或其任何直系親屬的安全的；申請人為照顧患病或殘疾的直系親屬而辭職的。如果申請人失業是由于申請人的婚姻造成的，則該申請人沒有領取失業金的資格。

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

如果勞工部根據您的案件事實，認定您在沒有“正當理由”的情況下自願辭職，您可以提出以下論點辯駁：

- 您是在符合上述條件之一的情況下辭職，因此有“充分的理由”

- 您沒有辭職

Misconduct

不當行為

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.

法規中沒有對“不當行為”一詞進行定義，然而，上訴法庭認定其為違反合理的工作條件而損害雇主利益的行為。申請人的行為不必是故意的才構成不當行為。不當行為可能出現在嚴重疏忽、漠不關心或反複出現的疏忽中。不能因不當行為而被取消失業金資格的情況包括：純粹的效率低下、因缺乏能力或不具行為能力而表現不佳、個別情況下的無意或一般疏忽，或在判斷或裁量方面的善意錯誤。勞工部和法院的裁決表明，“不當行為”如果對雇主產生了不利影響的，也可能包括工作之外的行為或不作為。此外，最終事件與終止雇傭之間必須在時間點上有直接關係，最終事件必須被證明是終止雇傭的直接原因。

The Statute

法規

- 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.

- 《勞動法》第 593(3)條提到不當行為的如下內容：“在申請人因與其工作有關的不當行為而失去工作後，在他或她隨後進行工作並獲得至少等于他或她每周 10 倍的報酬之前，失業天數將不被計入。”《勞動法》第 527 條指出，在確定申請人的失業金時，不能使用因不當行為而被解雇的工作的工資來計算申請人的失業金時薪。

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

如果勞工部認定您是因為不當行為而被解雇的，取決于您的案件事實，您可以辯稱：

- 您的行為沒有上升到不當行為的程度
- 對於犯罪行為，您可以辯稱被指控的行為與您的工作沒有足夠的關聯
- 您不知道您的行為可能導致解雇或構成不當行為
- 不當行為的行為與您的解雇沒有充分的聯系，即不當行為發生在解雇前幾個月，或者您因其他原因被解雇

Additional Resources

額外資源

- 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.
這可以用來搜索更多關於您特定法律問題的信息，並幫助您形成您的法律論點。
- 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.

這可用于搜尋上訴委員會作出的有利于申請人的類似案件。您可以引用這些案例作為對您有利的判決的依據。雖然行政法官不受上訴委員會裁決的約束，但它可以被用作對您有利的有說服力的證據。