

**RULES
OF
GEORGIA DEPARTMENT OF LABOR
EMPLOYMENT SECURITY LAW**

**CHAPTER 300-2-4
UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS**

TABLE OF CONTENTS

Rule 300-2-4-.08. Overpayments

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(1) Waiver of Overpayments Generally.

(a) An individual shall be required to repay an overpayment of unemployment insurance benefits unless a timely application for waiver is filed and such repayment, in the discretion of the Commissioner or the Commissioner's designee, is determined to be inequitable under this rule and fault is not found to be attributable to that individual. Such determination shall not be appealable.

(b) A waiver of an unemployment insurance overpayment may not be granted if the request for such waiver is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment. Provided, however, that such time limitation may be extended, in the discretion of the Commissioner or the Commissioner's designee, upon a showing of extenuating circumstances which prevented the filing of a timely waiver request by the claimant and such circumstances were beyond the claimant's control.

(c) A waiver of an unemployment insurance overpayment may not be granted to any individual who has been expressly determined to have brought about such overpayment by the presentation of false or misleading statements or representations, whether or not such action has been determined fraudulent, when such individual could have or should have known such information presentation was false or misleading.

(d) A waiver of an unemployment insurance overpayment may be granted to an individual only if:

1. A timely application for waiver is filed;
2. Fault is not attributable to the individual, as outlined in paragraph (c) of this rule;
3. The individual provides, at the time of the individual's request for a waiver, satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual; and
4. The individual provides, at the time of the individual's request for a waiver, satisfactory evidence that he or she has no reasonable prospect of future employment or ability to repay the overpayment in the future, due to age, disability, or other good cause.

(e) Financial hardship exists if recovery of the overpayment would result directly in the individual's loss of or inability to obtain the minimal necessities of food, medicine, and shelter for a substantial period of time and such circumstances may be expected to endure for the foreseeable future.

(f) A waiver of an unemployment insurance overpayment may be issued by the department in whole or in part upon the finding of a court of law having proper subject matter jurisdiction which rules that error existed in the information utilized to establish such overpayment, whether or not such overpayment was determined to be fraudulent in nature. Additionally, if a court finds repayment of an overpayment should be waived by virtue of discharge in bankruptcy granted under provision of Chapter 7 or Chapter 13 of the Bankruptcy Code, waiver will be granted.

(g) A waiver by the Commissioner of unemployment insurance overpayments cannot be granted when prohibited by federal law or regulation regardless of fault.

(2) Special Limited Waiver of COVID-19 Pandemic Related Overpayments.

(a) In the discretion of the Commissioner or the Commissioner's designee, an overpayment of regular state unemployment insurance benefits with respect to any claim week ending on or between March 21, 2020, and June 26, 2021, may be waived if:

1. The overpayment was caused by incorrect or no earnings reported on a partial claim filed by an employer;
2. Fault is not attributable to the claimant for the reporting of incorrect or no earnings on the partial claim;
3. The overpayment has not been repaid; and
4. Repayment would be inequitable, as defined in this special rule.

(b) In the sole discretion of the Commissioner or the Commissioner's designee, repayment shall be considered inequitable if:

1. It would cause financial hardship to the person for whom waiver is sought;
2. The recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse; or
3. Recovery would be unconscionable under the circumstances.

(c) Anyone seeking an overpayment waiver under this special rule shall submit a written request for a waiver to the Department specifying in detail why repayment would be inequitable including supporting documentation.

(d) The Department will consider each individual's waiver request separately on its own merits, with due consideration of all the facts and circumstances of each individual case.

(e) This special limited waiver rule shall also apply to overpaid weeks of Pandemic Emergency Unemployment Compensation, State Extended Benefits, Federal Pandemic Unemployment Compensation, and Lost Wages Assistance, except when such a waiver would be prohibited by federal law and regulations.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70(b), 34-8-254(c); 34-8-197(b); 15 U.S.C. §§ 9023(f)(2); 9025(e)(2); Continued Assistance for Unemployed Workers Act of 2020 § 262(b).