

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

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

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Rule 300-2-4-.08. Overpayments

Waiver of Overpayments.

(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.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70, 34-8-190, 34-8-254, and 34-8-255.

300-2-4-.09 Partial Unemployment

(1)(a) "Weekly report of Low Earnings", Form DOL-408, may be filed by an employer with respect to any complete pay-period week during which an otherwise full-time employee works less than full-time, due to lack of work only, and earns an amount not exceeding his unemployment insurance weekly amount, if known, plus \$50.00 or earns an amount not exceeding the maximum weekly benefit amount provided in the Employment Security Law, plus \$50.00, if the individual's unemployment insurance weekly benefit is not known. Partial unemployment claims shall not be submitted or allowed for vacation days regardless of whether such vacation days were requested by the employee or established by the employer.

(b) For partial claim weeks beginning on or after December 11, 2016, the limitation on partial unemployment claims set forth in the last sentence of subparagraph (1)(a) shall not apply during an employer company shutdown or employer established vacation period when such shutdown or vacation period is due to circumstances outside the employer's control which directly affect the employer's business operations.

(c) An employer filing partial unemployment claims must have a positive reserve account as that term is used in OCGA 34-8-155; provided, however, the positive reserve account requirement shall not apply to partial claims filed for partial claim weeks beginning on or after December 11, 2016.

(2) Payments shall be made for partial unemployment only upon the approval by the Commissioner. Approval shall be based upon consideration of the conditions set forth in these regulations.

(a) The employer shall complete an affidavit in such form as approved by the Commissioner with respect to the partial unemployment for partial claims which are submitted on magnetic tape.

(b) Normally employers who have over twenty-five (25) employees affected by the partial unemployment may have such partial unemployment approved.

(c) Such unemployment must have been directly caused by lack of work and no other issues as to entitlement of unemployment benefits may be present; if other issues are involved the employee must report to the nearest career center in order to claim unemployment benefits.

(d) Form DOL-408, the questionnaire and any other correspondence shall be signed by the employer and transmitted to:

Georgia Department of Labor
Claims Administration
Suite 900
148 Andrew Young International Blvd., N.E.
Atlanta, Georgia, 30303-1751.

(e) The employer's physical address, telephone number and DOL account number must be shown on forms. Forms with only post office mailing addresses or without telephone number and account number shall not be accepted.

(f) The Commissioner may provide for the filing of partial claims online and require the filing of all partial claims online.

(3) Six (6) consecutive weeks or total unemployment immediately following a week of full-time or part-time employment may be reported by an employer on Form DOL-408 or magnetic tape or online.

(4) Following those six (6) consecutive weeks of total unemployment for any worker reported on Form DOL-408, an employer who requests permission and shows justifiable cause may, upon approval of the Commissioner report four (4) additional weeks of total unemployment on Form DOL-408, provided the employer provides a firm return to work date for such employees within the four (4) week time period.

(a) If the employer can provide no firm return to work date or upon expiration of the approved time period for acceptance of partial unemployment claims, or when an employer ceases to file Form DOL-408 for any totally unemployed worker, the employer shall immediately advise the employee to report in person to the nearest local career center of the department for the purpose of registering for work and reporting on his or her claim.

(b) Employers will not be authorized to file low earnings reports for regular breaks in seasonal employment. They may be filed when unusual circumstances require a break in employment at a time of normal, non-seasonal work.

(c) Any employer found by the Commissioner to be abusing the purpose and intent of the partial claims program will be restricted from using the partial claims program will be restricted from using the partial system for a period of three (3) years from the time of discovery of the violation. This restriction may be appealed to the Commissioner for possible reconsideration. Such appeal shall follow standard appeal provisions specified in the Employment Security Law for benefit appeals at O.C.G.A. Section 34-8-220.

(5) Because partial unemployment claims are employer-initiated claims based upon lack of work, such employers will receive no Form DOL-1199FF (notice of initial claim). The employer will receive its quarterly notification of charges against its account as provided by O.C.G.A. Section 34-8-157(d) and O.C.G.A. Section 34-8-159(4), provided, however, such employer will be furnished notice of the approval by the Department of the initial partial claims.

(6) An employer shall not be permitted to file partial claims within 180 days of registering their account with the Department. In the discretion of the Commissioner, this limitation on partial claim filing may be waived.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-47, 34-8-70, 34-8-190.

Rule 300-2-4-.12 Coordination of Pandemic Emergency Unemployment Compensation with Regular State Unemployment Compensation

(1) An individual with remaining entitlement to pandemic emergency unemployment compensation with respect to a benefit year that expired after December 27, 2020, shall file a new initial claim for regular state unemployment compensation as a prerequisite to receiving any weeks of unemployment compensation after the prior benefit year expired. If, as of the effective date of filing a new initial claim:

(a) The individual cannot establish a valid claim for regular state unemployment compensation, payment of pandemic emergency unemployment compensation with respect to the expired benefit year shall resume until entitlement to such benefits has exhausted;

(b) The individual can establish a valid claim for regular state unemployment compensation with a weekly benefit amount of at least \$25.00 less than the weekly benefit amount of the expired benefit year, a new benefit year of regular state unemployment compensation shall be established, provided; however, that payment of regular state unemployment compensation shall be deferred until entitlement to pandemic emergency unemployment compensation with respect to the expired benefit year has exhausted; or

(c) The individual can establish a valid claim for regular state unemployment compensation with a weekly benefit amount greater than the weekly benefit amount of the expired benefit year less \$25.00, a new benefit year of regular state unemployment compensation shall be established and such individual shall not be entitled to pandemic emergency unemployment compensation with respect to the expired benefit year until entitlement to regular state unemployment compensation with respect to the new benefit year has exhausted.

(2) This rule shall only be given effect to the extent that it is consistent with Section 206 of the Continued Assistance for Unemployed Workers Act of 2020 or otherwise does not create a conformity issue with federal law.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70, 34-8-190(a).

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OF
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EMPLOYMENT SECURITY LAW**

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Rule 300-2-6-.04 Contact by a Government Official About a Third-Party Claim

Should a government official or anyone representing or acting on behalf of a government official other than a department employee or contractor, contact the department on behalf of an employer or a claimant concerning a pending claim for unemployment insurance benefits, then the Commissioner, or the Commissioner's designee, in his/her sole discretion, shall direct the department to notify the other party in such matter of the inquiry by the government official and the name of the governmental office within five (5) business days of receipt of the inquiry.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70, 34-8-123