

**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) An individual shall be required to repay an overpayment of unemployment compensation unless a written application for waiver is filed with the Department and approved by the Commissioner or the Commissioner's designee.
- (2) An application for waiver shall not be accepted for any overpayment the Department determined was the result of fraud attributable to the individual.
- (3) An application for waiver shall not be approved if it is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment, provided, however, that the time limitation may be extended upon a showing of extenuating circumstances which prevented the filing of a timely application for waiver by the individual and such circumstances were beyond the individual's control.
- (4) The Commissioner or the Commissioner's designee shall notify each individual in writing whether the application for waiver of overpayment has been approved or denied. The decision of the Commissioner or the Commissioner's designee shall become final unless the individual appeals the decision within 15 days after the notice was mailed or otherwise delivered to the individual.
- (5) The Department shall suspend collection of an overpayment while an application for waiver of the same overpayment is pending.
- (6) An application for waiver of overpayment of unemployment compensation shall be approved only if:
 - (a) The individual is determined to be without fault in the cause of the overpayment, regardless of whether such fault rises to the level of fraud; and
 - (b) Repayment of the overpayment is determined to be contrary to equity and good conscience.
- (7) Repayment of the overpayment shall be contrary to equity and good conscience 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.
- (8) An application for waiver of overpayment shall specify why the individual was without fault in the cause of the overpayment and why repayment would be contrary to equity and good conscience, including supporting documentation.

(9) The Department shall consider each individual's waiver application separately on its own merits, with due consideration of the facts and circumstances of each individual case. When authorized by federal law and regulations, and when it would not create a federal conformity issue, the Department may approve blanket waivers for groups of similarly situated individuals.

(10) Upon approval of an application for waiver, the Department shall refund any amounts that were collected towards the applicable overpayment prior to such approval, except when prohibited by state or federal law.

(11) 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 under federal bankruptcy law, waiver will be granted.

(12) This rule shall apply to overpayments of all federal or state unemployment compensation programs administered by the Department, but only to the extent this rule is consistent with federal law and regulations, and would not create a federal conformity issue. An application for waiver of an overpayment of unemployment compensation shall not be approved when waiver would be prohibited by federal law or regulation, regardless of an individual's fault.

(13) Covid-19 Pandemic Overpayment Provisions.

(a) For any Notice of Overpayment issued prior to the effective date of this rule that established an overpayment for one or more weeks ending February 8, 2020, through June 26, 2021, the fifteen (15) day time limitation to file an application for waiver of overpayment shall be waived through June 30, 2022.

(b) An individual whose application for waiver of overpayment was denied prior to the effective date of this rule may request a redetermination; provided, however, that only overpayment weeks ending February 8, 2020, through June 26, 2021, shall be eligible for redetermination and the request for redetermination must be submitted to the Department before July 1, 2022. A redetermination with respect to eligible weeks shall be made in accordance with the provisions of this rule.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70(b), 34-8-254(c); 34-8-197(b).