

## **Guide to an Unemployment Insurance Compensation Overpayment and Waivers**

### **Initial Overpayment Notice**

The Department of Workforce Development (“DWD”) issues Overpayment Notices when it makes a Determination that you are ineligible for unemployment compensation benefits and you have been paid benefits. You cannot appeal an Overpayment Notice directly, but you can appeal any Determination associated with your Overpayment Notice within **10 days**. An appeal of the Determination of eligibility will allow you to directly address your eligibility for benefits through a hearing before an Administrative Law Judge (“ALJ”), and if you are eligible for benefits, you will not have an overpayment. See **Guide to an Unemployment Insurance Compensation Hearing** for further details on appeals.

Although your Overpayment Notice may say otherwise, DWD should not start collection efforts while any appeal is pending.

### **Waivers**

If your overpayment is from a final DWD decision (no further right to appeal), your overpayment is a debt which DWD will seek to collect. You can ask the DWD to waive the overpayment – ask that they not collect the overpayment.

To qualify for waiver, you must show:

1. The benefits were received by you without any fault of yours (the information you provided to DWD was accurate);
2. The benefits were paid due to an error by DWD or during the pendency of an appeal which ultimately led to a determination that you were not eligible for the benefits; and
3. Repayment by you would cause you economic hardship.

To request a waiver, complete the Overpayment Waiver Request Application, available as Form 52986 at: <https://www.in.gov/dwd/2406.htm>

It is recommended to include an extra sheet providing additional information on the accuracy of the information you provided to DWD when applying for benefits and completing your vouchers as well as whether you received benefits during an appeal, or through DWD or employer error. Submit the application as provided on the form.

DWD will pause any collection efforts while your request for a Waiver is pending, although you may still receive collection notices.

If your waiver request is denied, you may appeal within 10 days and request a hearing on your waiver application before an Administrative Law Judge. See **Guide to an Unemployment Insurance Compensation Hearing** for further details on appeals.

If you have had a significant change in your economic circumstances and six months have passed since you received a final decision on your first waiver request, you can request reconsideration of your waiver application. Submit a request for reconsideration of your waiver application to the same address or Fax number that you used to submit your original waiver application.

DWD will review your request for reconsideration and make a decision. That decision is final and you cannot appeal that decision. Although you can request reconsideration of your waiver application every 12 months if your economic circumstances have changed.

### **Collection of Overpayments**

In the absence of a waiver, DWD will treat any Overpayment as a debt to collect. In addition to receiving Overpayment Notices you may also receive Monthly Billing Statements or Demand Letters. DWD can take actions like garnishing wages you earn through subsequent employment. DWD can also intercept tax returns and lottery winnings to collect the overpayment debt. DWD will also offset any overpayments from any future unemployment benefits you may be entitled to.

You will not be charged interest on the unpaid balance, unless DWD has found that you knowingly made a false statement or failed to disclose a material fact. If so, the DWD can charge interest at the rate of one-half percent (0.5%) per month. An overpayment balance is dischargeable in bankruptcy proceedings unless there has been a finding of fraud.

If you enter into a repayment agreement with DWD, it will suggest a monthly payment amount. This amount will be based upon the unpaid balance. If you enter into a repayment agreement and stay current on your obligations, DWD will not take further action to collect your overpayment such as through wage garnishment or tax intercepts. You can pay “voluntary payments” of any amount to reduce the balance, even if you are not able to enter an agreement to pay the suggested monthly payments.