What Happens If I Received Unemployment Benefits when I was Not Eligible?

Question 1: What is an overpayment?

Overpayments happen when you receive unemployment benefits that you should not have received.

Question 2: How will I know if I have an overpayment?

You will get a notice from the Maine Department of Labor that you may have received unemployment benefits that you were not eligible for.

Question 3: What to do if you receive a notice that you were overpaid benefits.

The notice will tell you why the Department thinks you were overpaid. You will have a chance to tell your side of the story to a Department “Deputy” at a “fact-finding” hearing. If you are receiving benefits, the Department cannot stop or reduce your benefits before there is a decision from this fact-finding hearing.

At your fact-finding hearing, you can tell the Deputy why you think you are eligible for benefits. You can ask that your benefits continue and that you should not have to repay any benefits that you already received.

After the hearing, the Deputy will send you a written decision. If you disagree with this decision you can appeal. Be sure to appeal right away. You will only have 15 days from the day the decision was mailed to appeal. At this point you will not continue to get benefits, but they will be restored if you win your appeal.

Be sure to continue to file your weekly claims while you wait for a decision from the Deputy. This is important because if you do not file weekly claims, you will not get benefits for weeks you did not make a claim, even if you win your appeal.

Question 4: Do I have to repay an overpayment?

The overpayment will become final once you have used all your appeals and it has been finally decided that you were overpaid. At that time, the Department will send you a notice telling you that you have an overpayment, and how much you must repay. This notice will also tell you whether the Department has decided that your overpayment was not your fault (erroneous) or was because you knowingly made a false statement or did not reveal important facts (fraud). If you are accused of fraud be
sure to read Question 9: “I got a notice from the Department of Labor that I was overpaid benefits due to fraud. What should I do?”

You must pay the overpayment unless the overpayment has been waived. An overpayment may be “waived” (meaning that you do not have to repay it), depending on the reason for the overpayment and the type of unemployment benefit that you received. See Questions 5 through 6 for more information about waivers.

**Question #5: How do I apply for a waiver?**

After you have used up your appeals and the overpayment has become final you will receive a notice from the Department of Labor which says you must repay the benefits you received. At this point you can apply for a waiver.

**Request a waiver by writing a letter to the Unemployment Insurance Commission:**
Unemployment Insurance Commission  
57 State House Station  
Augusta, ME 04333-0057

The Commission will not accept phone calls requesting a waiver.

In your letter you should tell the Commission about how the overpayment occurred. Be sure to say if you did not understand that you might have to repay the benefits you were receiving. Look through the list of things the Commission must consider (Question #6) and include any information about your circumstances and your financial situation that will make it difficult for you to repay the benefits. It is okay to include relevant personal details such as your age, employment prospects and any barriers you experience in using or understanding the unemployment system including physical, mental, or educational issues or problems with fluency in English.

The letter should also include:
- your name
- your mailing address
- your e-mail address if you have one
- your phone number
- Be sure to include the date of the decision that says you were paid benefits you should not have received and that you must pay them back. If you are asking for more than one overpayment to be waived, included information about each decision.

After the Commission gets your letter, it will send you a form to fill out with questions about your financial situation. You must return that form to the Commission within 14 days after it was sent to you. Your request for a waiver will be **denied** if you do not return the form on time.

If you have a good reason for not returning the form within 14 days, you can ask the Commission to give you a 30-day extension. They may or may not grant this extension, so it is best to return it right away.
You can also ask to Commission to give you a hearing over the phone or in person so that you can tell them yourself why they should give you a waiver. But it is up to the Commission whether to give you a hearing or not.

**Question #6: Will I be approved for a waiver?**
The Unemployment Insurance Commission can approve or deny your request for a waiver. Maine law requires the Commission to look at how the overpayment occurred and any personal circumstances that might make it difficult for you to repay.

The Commission will consider:
- Your health and ability to work
- Whether you support family members or others
- Whether you have a job at the time of your request for a waiver
- Your family income and expenses
- Whether you own property, other than a home, car, and basic household goods
- Whether you have any bank accounts or other liquid assets
- Debts you and your family owe
- Medical or other expenses you or family members have
- Whether you got some other benefits like back pay after you got unemployment benefits
- Whether the Department gave you clear notice that you may have to repay benefits, and whether you understood that notice
- Whether making you repay undermines the whole purpose of getting unemployment benefits
- Whether waiving the overpayment is the fair and right thing to do

**Question #7 How Does the Reason for the Overpayment Affect My Request for a Waiver?**
If the overpayment was not your fault (Erroneous Payments) it may be waived. If the overpayment was the result of fraud or because you were at fault (Fraudulent Overpayment) the overpayment may not be waived.

1. **“Erroneous Payments”** These are the most common kinds of overpayments and are usually simple mistakes. For example, you might have made an error when you reported your earnings. Maybe your employer challenged your claim, and you were found not be eligible for benefits you already received. Sometimes the Department of Labor just makes a mistake.

   In these cases, the overpayment is considered “without fault.” This means that you did not do anything wrong on purpose. Since this kind of overpayment was not your fault, you may be able to get a “waiver,” which means you would not have to repay all or part of the overpayment. See more about waivers beginning at Question 3 above.
2. **“Fraudulent” Overpayments.** The second kind of overpayment happens if you make a false statement that you knew was wrong or withheld important information to get benefits you were not eligible for. In these cases, the Department may say that you were overpaid because of "a false statement or representation" or that you "knowingly failed to disclose a material fact." These overpayments are considered fraud. Benefits received because of fraud must be repaid. There are no waivers for fraudulent overpayments. These overpayments can have serious consequences including possible criminal charges and fines. For more information see Question 9 below.

**Question # 8 How Does the Type of Unemployment Benefit I received impact my request for a waiver?**

Yes, you may be eligible for a waiver if your overpayment was from one of these programs:

1. Maine’s regular unemployment program
2. The federal Pandemic Unemployment Compensation Program (PUC—the additional $600)
3. State or federal extended benefits programs (additional benefits after you ran out of your regular unemployment benefits).

You cannot get a waiver if you were overpaid under the Pandemic Unemployment Assistance Program (PUA/DUA), even if the overpayment was not your fault. But the Department is still limited in the amount that it can deduct from your weekly benefits as described above (10% of the first $100, and 50% of the amount over $100).

If you received both PUA and PUC (the extra $600), you can ask for a waiver of the PUC part of your overpayment.

It is not yet clear whether any benefits overpaid under the Lost Wage Assistance Program (LWA, the additional $300 a week received from the beginning of August through mid-September) can be waived or not. We will update this post when that answer is available.

**Question #9: What happens if the Commission gives me a waiver?**

The Commission may decide to waive all or only some of the amount of the overpaid benefits. If only part of your overpayment is waived, you will still have to pay back some of the benefits.

If you are still collecting unemployment benefits, a part of your weekly payment will be deducted to repay the overpayment.

There are limits on how much can be taken in a week. The department will deduct 10% of your first $100 in benefits, and 50% of any amount above $100. For example, if you get a weekly benefit of $400, the Department can only reduce your benefit by $10 + $150, or $160 a week, leaving you with a benefit of $240 a week until the amount you owe is recovered. The Commission decision may require a lower deduction.
If you are no longer collecting unemployment benefits the Department has other collection options. It can make a repayment plan with you, or it can issue a civil warrant to collect the debt. Your state income tax refund or lottery winnings can be also taken to repay the debt.

**Question #10: What happens if the Commission denies my waiver request?**
If you disagree with the Commission’s decision you can appeal. To do this, you can file an appeal in Superior Court. **You must file your appeal within 10 days.** This is called an “80C” appeal.

The Superior Court must accept the facts found by the Commission. The court can only change the Commission’s decision if it is unconstitutional, is based on an error of law, or is not supported by facts in the record of your case. For most people, this is difficult to do without the help of a lawyer.

If your appeal is not successful, you will have to repay the entire amount of the overpayment. You can pay the amount in full or make a payment plan with the Department of Labor. Sometimes the Commission will agree to deduct the amount out of any future unemployment benefits. (See limits on deduction from benefits described in Question #9).
But if the overpayment was the result of fraud, the Department can take all of your weekly benefit until the overpayment is repaid.

**Question #11: Will I have to pay interest on any overpayment that was not waived?**
If you have an erroneous overpayment that was not your fault, you will have to pay interest at 1% per month. Interest begins to accrue one year after the final overpayment decision.

If you received the overpayment as a result of fraud, interest of 1% per month will begin from the date that the overpayment was finally established. There is no one-year grace period.

**Question #12: I got a notice from the Department of Labor that I was overpaid benefits due to fraud. What should I do?**
If you get a notice that says you received an overpayment because of "a false statement or representation" or because you "knowingly failed to disclose a material fact" you are being investigated for fraud. If you think this may be true, you can refuse to do the fact-finding interview. Anything you say at a fact-finding could be used to charge you with a crime. Even if you refuse the fact-finding interview, you can still appeal any decision that lowers or stops your benefits. Be sure to read the Department notice carefully and appeal by the deadline.

This is a serious charge and can result in criminal charges being brought against you. The possible penalties can include jail time, and large money fines. It also may mean that you can't collect unemployment benefits again for a period of time. If the Department has given you a decision saying that you committed fraud and must repay benefits, you should appeal the decision and consult a criminal attorney.