

## **What is an overpayment of Unemployment Insurance Benefits?**

An overpayment occurs when unemployment (UI) benefits are paid to a claimant who is later determined not to have been eligible or entitled to those benefits. Because UI benefits were paid to the claimant before a decision or action changed the claimant's eligibility or entitlement, these benefits must be paid back to the Department of Workforce Development, regardless of fault unless a waiver of the overpayment is approved

## **What can cause an overpayment of Unemployment Insurance Benefits?**

Some of the common causes of overpayments include:

- A DWD decision reverses a previous award of UI benefits to a claimant.
- A claimant and/or an employer fail to disclose that the claimant received vacation or severance pay, or other similar pay after a job separation.
- A claimant fails to accurately report earnings and hours worked while filing for UI benefits.
- A claimant's weekly and/or maximum UI benefit amount changes (a monetary redetermination is made) because the wage information was incorrect when the claim was initially filed.
- A claimant is disqualified from receiving UI benefits due to being responsible for their job separation.
- A claimant fails to notify DWD that he or she does not meet the eligibility requirements.

## **Does filing an appeal stop collection of the overpayment?**

Yes. Collections are paused once a claimant timely files an appeal. A claimant may appeal the decision that resulted in the overpayment (called a Determination of Eligibility). The Overpayment Notice cannot be appealed because it is merely an accounting of what is owed based on the decision or Determination of Eligibility. Collections remain paused until the hearing is held, and a decision issued. Collections will begin again if a claimant still has an overpayment after the appeal is over.

## **What happens if I fail to pay back my overpayment?**

You will receive monthly billing notices and other collection letters regarding the amount owed. Should you become eligible for future UI benefits, 100% of each weekly benefit payment may be applied to the overpayment balance until it is paid in full. NOTE: During the public health emergency due to COVID-19, this amount has been reduced to \$10 of each weekly payment. You may receive notice of a pending civil action by the Attorney General's Office. Your Indiana state and/or federal income tax refunds and lottery winnings may be withheld and applied to the overpayment. DWD may also garnish wages. You can contact DWD at any point to discuss setting up a payment agreement as alternatives to the above payment actions.

## **How can I make payments toward my overpayment?**

Payments on your overpayment balance can be made in person at the Department of Workforce Development at 10 North Senate Avenue in Indianapolis, online at [payingov.com/dwd](https://payingov.com/dwd), by U.S. Mail, or by phone 888-877-0450. If in person, DWD will accept payments in the form of a check, money order or exact cash. WorkOne offices will not accept payments.

## **Where do I mail payments?**

Address the envelope as follows:

Indiana Workforce Development  
Attn: UI Cashiering  
10 North Senate Avenue, SE 001  
Indianapolis, Indiana 46204-2277

Remember to include your account number in your correspondence.

## **Can I be prosecuted for not reporting my work and earnings while receiving unemployment benefits?**

Under Indiana Code 35-43-5-7 regarding Welfare Fraud, a person who knowingly or intentionally obtains public relief or assistance by fraudulent means commits a Class A misdemeanor for amounts received up to \$750, a Level 6 felony for amounts more than \$750 but less than \$50,000, and a Level 5 felony if the amount is \$50,000 or more.

## **Will DWD assess a penalty if I do not report work and earnings while I am receiving unemployment benefits?**

For the first instance of fraud, a twenty-five (25%) penalty is assessed on the amount of the established overpayment. For a second instance of fraud, there is a fifty (50%) penalty and a one hundred percent (100%) penalty for the third and any subsequent fraudulent overpayments established. Interest will accrue at the rate of one-half (0.5%) per month on the unpaid balance.

## **If the overpayment is in my spouse's name, why are you intercepting my tax refund?**

Your Indiana state and/or federal tax refund may be intercepted to pay your overpayment balance. The Department of Revenue and IRS will match Social Security numbers with individuals who have an overpayment debt payable to the Department of Workforce Development. If you and your spouse file your taxes jointly, your refund may be intercepted to pay the overpayment debt.

## Can my overpayment be waived?

In certain circumstances, a claimant may be eligible to have his/her overpayment waived. In accordance with Ind. Code §22-4-13-1(i), an overpayment may be waived upon the request of the individual only if the following criteria are met:

1. the benefits were received by the individual without fault of the individual;
2. the benefits were the result of payments made:
  - a. during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; OR
  - b. because of an error by the employer or the department; AND
3. repayment would cause economic hardship to the individual.

Claimants must submit an Overpayment Waiver Request application for consideration. The Department will evaluate the request and issue a determination to the claimant. The application can be found at [www.unemployment.IN.gov](http://www.unemployment.IN.gov) under "Forms and Downloads." Certain exclusions apply. Please see [DWD Policy 2020-04](#) for more information about the waiver process.

## Can my overpayment be written off if I file bankruptcy?

If you have declared bankruptcy, please send proof of filing by the following methods:

1. Mail or hand deliver a copy to:

Indiana Department of Workforce Development  
Attn: Benefit Collections Dept.  
10 North Senate Avenue  
Indianapolis, Indiana 46204

2. Fax a copy to "Benefit Collections Dept." (317) 234-2932

*\*Please make sure proof of filing includes case number, filing date, and the court in which you filed.*

Bankruptcy may relieve overpayment debt if it is included in your bankruptcy filing. An overpayment established due to fraud is usually not dischargeable. DWD will file for an adversary hearing in the bankruptcy court to ensure that the fraud overpayment debt remains. The costs of this action will be added to the overpayment debt.