



Unemployment Overpayments

What is an Unemployment overpayment?

Unemployment Insurance (UI) is given to people who lose their jobs when it is not their fault. Most people just call it “Unemployment.” An Unemployment overpayment happens when you get money you shouldn’t have. There are 2 types of overpayments:

- Regular overpayment
- Misrepresentation overpayment (this is also called a fraud overpayment)

Why do I have an overpayment?

The most common reasons for overpayments are:

- You didn’t report income, or you didn’t report it in the right way when you were getting Unemployment.
 - You have to report your income the week you earn it, not the week you are paid.
 - You have to report gross income (before taxes), not what you take home.
- You started to get Unemployment, but your employer appealed, and the judge agreed with them. Now you have to pay the money back.



Sometimes, overpayments happen because the state makes a mistake when sending out the payments. Even if the overpayment is not your fault, you have to pay it back.

What is the difference between a regular overpayment and a misrepresentation overpayment?

Regular Overpayment

- happens because:
 - the state made a mistake
 - the state thinks you made a mistake or
 - an appeal changes the decision the state made
- stays on your records for 6 years or until it’s paid, whichever comes first.
- There are no interest or penalties
- You can still get Unemployment if you have a regular overpayment, but the state takes either 50% or 100% of your payments to pay back the overpayment.

Misrepresentation Overpayment

- Happens when the state believes you made a false statement. Like if you didn't report earnings when you knew you should have.
- Stays on your record for 10 years or until it's paid, whichever comes first.
- There is a 40% penalty plus interest. There are other penalties the state can use, but it almost never does.
- You can't get Unemployment if you have a misrepresentation overpayment. Payments you would have gotten won't go towards the overpayment.



The overpayment is wrong. What can I do?

Read the notice carefully. If this is your first notice about the overpayment, you can appeal. **You must appeal by the date on the notice.** There are no exceptions to this rule. You can appeal online or by sending a letter. The instructions to appeal are on the notice. You can call your legal aid office for help, but do not miss your appeal time waiting for help with your case.

Find your legal aid office by calling 1(877) 696-6529 (877-MY-MN-LAW).

I can't afford to pay this back. Now what?

You have the option of paying what you can or making a payment agreement. We do not recommend making payment plans. Even if you make a payment plan, the following will happen:

- **The state uses revenue recapture to pay the overpayment back.** This means they take your state tax returns, renter's rebates, property tax rebates, and lottery winnings. Talk to your tax preparer about keeping your state tax refunds as low as possible. See our fact sheet [When They Keep Your State Tax Refund](#), for more information on revenue recapture. After 6 years for a regular overpayment and 10 years for a misrepresentation overpayment, whatever has not been paid through revenue recapture is erased from the record.
- **If you have a regular overpayment and qualify for Unemployment** after the overpayment amount has been figured out, the state takes 50% or 100%. They take 100% if the overpayment is because you didn't report income and 50% for other reasons. You are not eligible for any Unemployment if you have a fraud overpayment.

Unlike other kinds of overpayments, the state doesn't waive or stop collecting Unemployment overpayments because you are in other programs, like MA or MFIP.

What happens if I do nothing and let the state collect the overpayment through revenue recapture?

The state does not report overpayments to credit bureaus, so this doesn't affect your credit rating.

By law, the state can garnish your wages if you have either type of overpayment, but this is something they are not doing right now.

For misrepresentation overpayments, the state can do other things, like:

- put a lien on your property
- take you to court
- add other penalties
- take money from your bank account, etc.

This sounds scary, but, again, the state is not doing these things right now, either.

You will get notices every month about the overpayment. Open them, make sure it's just a regular notice and there is no new information, and then toss them.

What else should I do?

Make sure you update your address for the next **4 years** after you stop getting Unemployment. Do this in your Unemployment account online or by calling 651-296-3644. If there is a change to your account or your overpayment, you are responsible for responding to mail sent to the address in your account.



Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

© 2023 Minnesota Legal Services Coalition. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.