



What do I do if I receive an overpayment notice from the Employment Security Department?

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- ❖ Read this only if you live in the state of Washington.
 - ❖ You can find all the fact sheets we link to here at WashingtonLawHelp.org.
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Should I read this?

Yes, if you got a notice from the Employment Security Department (ESD) saying you must pay back unemployment benefits you had gotten. The term ESD uses to describe benefits you received that you have to pay back is an “**overpayment**.”

Why did I get this overpayment notice?

Usually, you get this notice because ESD decided that you are not eligible to get unemployment benefits.

There are several reasons you may not qualify for ESD benefits:

- **ESD paid you before it had fully investigated** your job situation and the circumstances of you leaving your job. After ESD had more information, they decided you did not qualify.

OR

- **After you started getting unemployment benefits, your former employer disagreed that you should get them.** Your former employer appealed the ESD decision. At a hearing, a judge agreed that you are not eligible and have to pay the money back (or part of it).

OR

- There could also be **internal ESD reasons** for an overpayment. In the fall of 2020, many people received weeks or months of unemployment benefits and then were told they must return the money. ESD had enrolled them in the wrong program. After the switch was made, their overpayment was often a small amount, or nothing. In some cases, the state automatically started taking (garnishing) money from peoples' bank accounts.

I received a notice of overpayment. What should I do?

- 1. Find out why you got the overpayment.** Usually, either ESD or an “administrative” judge decided you were ineligible. If you do not have a copy of the decision or judge ruling, search for it in your EServices account at hsecure.esd.wa.gov/home or ask ESD for a copy of the decision by calling them toll-free at 800-318-6022. You may have to wait on hold a long time or keep calling to get through. If you know a judge decided your ineligibility in a hearing (called an **initial order**), call the Office of Administrative Hearings at 800-388-8805 to ask for a copy.
- 2. Take time to read your overpayment notice.** It may say you owe X amount of dollars, but later when you get the “overpayment detail notice,” the amount owed may be much higher. If you received benefits between May 1 and July 31, 2020, pandemic unemployment (PUC) payments of \$600 per week may be included. If you received payments between January 2, 2021 and March 14, 2021, PUC payments of \$300 per week may be included.
- 3.** It may be a mistake. In 2020, ESD's computer system mistakenly sent many overpayment letters to people who were victims of impostor fraud. You should check to be sure the overpayment is valid. Read [Coronavirus \(COVID-19\): Is someone else wrongfully getting your unemployment benefits?](#) to learn more.

I agree that I was overpaid unemployment benefits. What should I do?

Washington charges very high interest—12%—on overpayments starting immediately. ESD expects you to make regular minimum payments on the

overpayment. Washington also adds penalties any time there are more than two late payments.

Visit esd.wa.gov/unemployment/overpayments-repaying to learn more about how to make online payments.

I still think that I am eligible to get unemployment benefits. What should I do?

You can officially disagree with (“appeal”) an ESD decision. To do this, you must write a statement that you disagree and wish to appeal. Send your statement within 30 days of the decision to:

Employment Security Department
P.O. Box 19018
Olympia, WA 98507-0018
Fax: 800-301-1795

Appealing a judge’s initial order is more complicated. You must submit a Petition for Review, also within 30 days of entry of the order.

For free legal help, see below. Instructions on how to appeal your ineligibility are included on every decision or initial order.

You can learn more about appealing in [How to Appeal Denial of Unemployment to Superior Court](#).

I filed an appeal but they still sent my case to collections. What do I do?

You can call or email ESD’s Benefit Payments Control (BPC) at 866-697-4831 or bpcunit@esd.wa.gov. Ask them to put collections on hold while your appeal is being decided.

If you missed the deadline to file an appeal, you will have to show you had good cause for filing it late. The BPC unit may not put collections on hold if your appeal is filed late.

I don't want to appeal, but I can't afford to pay. What should I do?

You can ask ESD to not make you pay the money back because you cannot afford it. Ask them for an application to **waive** the overpayment. If the overpayment was not your fault, ESD may excuse you from paying back (waive your responsibility for) the overpayment.

You will need to prove that all the information you gave in your initial application for unemployment benefits was true and that without a waiver you will suffer "financial hardship." ESD can but does not have to grant you a waiver (decide you don't have to pay the money back because it would be a burden to you and your family).

If your overpayment concerns any Pandemic Unemployment Assistance (PUA) claim, you can ask to not pay back overpayments you got since March 27, 2020.

My request for a waiver was denied. What can I do?

You also may appeal that decision. You may appeal the determination that you are not entitled to a waiver using the same instructions under the section above titled, "I still think that I am eligible to get unemployment benefits. What should I do?"

For legal help:

- **Unemployment Law Project** at 206-441-9178

OR

- **Outside King County:** Call the CLEAR Hotline at 1-888-201-1014 weekdays from 9:15 a.m. - 12:15 p.m.
- **In King County:** Call 2-1-1 for referral to a legal services provider weekdays from 8:00 am – 6:00 pm.
- **Apply online with [CLEAR*Online](https://nwjustice.org/get-legal-help)** - nwjustice.org/get-legal-help
- **In Spokane County** you also can request a call back by leaving a message at 1-844-787-8822.



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- **Persons 60 and Over** can call CLEAR*Sr at 1-888-387-7111, statewide.
- **Deaf, hard of hearing or speech-impaired callers** can call CLEAR or 211 (or toll-free 1-877-211-9274) using a relay service of your choice.

CLEAR and 211 will provide free interpreters.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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