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U.S. Labor Department Grants States Authority to Waive Certain Unemployment Overpayments

FOR IMMEDIATE RELEASE

February 8, 2022

TRENTON – The U.S. Department of Labor yesterday revised earlier guidance on states’ ability to waive certain unemployment insurance overpayments after New Jersey and other states urged the action on behalf of claimants who received federal benefits during the pandemic but were later found to be ineligible.

“We are thankful to the states, like New Jersey, that shared with us challenges dealing with overpayment waivers in a way that will not alarm claimants or cause them undue hardship,” said U.S. Labor Secretary Marty Walsh. “States did their best to pay benefits as quickly as they could during the pandemic, but implementing new programs quickly meant innocent mistakes that resulted in overpayments. We encourage states to forgive as many honest mistakes as they can.”

The New Jersey Department of Labor is working through the details of the updated guidance and will notify claimants eligible for the overpayment waivers of their next steps.

“This is great news for tens of thousands of New Jerseyans who received these benefits believing they were entitled to them, but found out when federal guidance changed that they did not meet the eligibility standards. We’re grateful to U.S. Labor Commissioner Walsh for his openness to state input and the dedicated staff at USDOL for their efforts on this important change,” New Jersey Labor Commissioner Robert Asaro-Angelo said.

The updated guidance contains five scenarios under which overpayments may be waived, all involving receipt of COVID-19 related expanded unemployment benefits such as Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC).

The situations include but are not limited to: if a claimant responded “no” to being able and available for work and the state issued PUA or PEUC payments without adjudicating the eligibility issue; a claimant who received a higher PUA payment that they were eligible for; a claimant whose PUA weekly benefit amount was calculated incorrectly based on the earnings statement submitted.

In a [letter](#) to Congressional leaders dated Jan. 7, leaders of the National Association of State Workforce Agencies (NASWA), including Asaro-Angelo, who is the organization’s chair, asked for the states to be allowed to waive all non-fraudulent pandemic-related unemployment overpayments.

“As a result of numerous changes in guidance from the U.S. Department of Labor since the original passage of the CARES Act, in addition to the eligibility changes brought about in the Continued Assistance Act, many individuals who received pandemic UI assistance are now seeing their benefits changed to overpayments – requiring them to repay these funds, which they received through no fault of their own. A current and consistent waiver process is not available in all states and federal action is necessary to prevent further hardships on these individuals,” the letter states.

Additionally, the probability of recovering the overpayments from the millions of claimants across the country who received them is low compared to the resources that would be used attempting to recover them.



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NJDOL Is working through the details of the updated guidance and will notify eligible claimants of their next steps. We’re grateful to [@USDOL](#) Commissioner Walsh for his openness to state input and the dedicated staff at USDOL for their efforts on this important change.

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In New Jersey, as many as 250,000 claimants could be affected. The average overpayment is about \$4,400.

“While we appreciate USDOL pursuing its available statutory authority to provide relief, we remain hopeful that Congress will grant states the broader overpayment waiver authority we are seeking. Doing so would provide peace of mind to tens of thousands of New Jerseyans whose overpayments fall outside the new guidance. It would also allow us to dedicate our resources to serving unemployed workers in need rather than putting claimants in precarious financial situations,” the Commissioner said.

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