

# CHAPTER 6

## OVERPAYMENTS

### IN GENERAL

This chapter deals with state law provisions for identifying, establishing, and collecting Unemployment Insurance (UI) benefit overpayments. An overpayment occurs when individuals receive benefits to which they are not entitled. State laws generally treat overpayments in which the individual is not at fault or is not committing fraud differently to those overpayments in which the individual has committed fraud, engaged in willful misrepresentation, or concealed material facts. In addition, state laws contain provisions for fines and imprisonment for willfully or intentionally misrepresenting or concealing facts material to a determination concerning the individual's entitlement to benefits.

### NONFRAUD AND NONFAULT PROVISIONS

**WAIVERS OF RECOVERY**—Many states provide that if the overpayment is without fault or fraud on the individual's part, under certain circumstances, the individual may not be liable to repay the amount overpaid. The following table lists the states and some of the reasons those states may waive recovery of the overpayment.

TABLE 6-1: STATES WAIVING RECOVERY OF NONFRAUD OR NONFAULT OVERPAYMENTS AND REASONS					
State	Agency Error	Employer Error	Equity or Good Conscience	Financial Hardship	Other
AL		X	X		
AK			X		
AZ			X		
AR	X		X		
CA				X	
CO			X	X	
CT	X				
DC				X	
FL		X			
GA			X	X	
HI			X		
ID	X	X			
IL			X	X	
IN	X	X			
IA		X			
KS	X			X	
LA			X		
ME			X		
MD	X			X	

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TABLE 6-1: STATES WAIVING RECOVERY OF NONFRAUD OR NONFAULT OVERPAYMENTS AND REASONS					
State	Agency Error	Employer Error	Equity or Good Conscience	Financial Hardship	Other
MA			X		
MI	X		X		
MN					X
MT	X	X		X	
NV			X		
NH					X
NJ	X	X	X	X	
NC					X
ND			X		
OH	X	X			
OR			X		X
PA					X
RI			X		
SC			X		
SD			X	X	
TN		X	X		
UT				X	
VT					X
VI			X		
VA			X		
WA			X		
WI	X		X		
WY			X	X	

GENERAL NOTE: The following states do not have overpayment waiver of recovery provisions: **DE, KY, MS, MO, NE, NM, NY, OK, PR, TX, and WV.**

**RECOVERY PROVISIONS**—All state laws provide for recovery of benefit overpayments. In addition to direct repayment, states utilize several tools to recoup these funds. Under one method, benefit offset, states may recover nonfraud and fraud overpayments by deducting from future benefits payable. In specific circumstances, benefit offset is mandatory. States must also recover certain types of overpayments from an individual’s federal income tax refund through the Treasury Offset Program, including overpayments due to fraud and overpayments due to misreported work and earnings. Similarly, states may also offset overpayments with monies due to the individual from state tax refunds or lottery winnings, or the state can compel repayment by pursuing civil action in state court. Some state laws may also include provisions for denying or suspending professional licenses of persons owing an overpayment of UI benefits. Some states also assess interest on outstanding overpayment balances. The following table provides information about how states recover nonfraud overpayments.

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**TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS**

State	Benefit Offset		Offset with State Tax Refunds	Civil Action Permitted	Interest Assessed
	Offset Against Future Benefits	Number of Years Limited			
AL	100%	No	Yes	Yes	No
AK	100%	No	Yes	No	No
AZ	50% - 100%	No	Yes <sup>1</sup>	No	10% per year from month after overpayment established
AR	100%	4 years from date of final determination	Yes	Yes	10% annually once final overpayment has force and effect of judgment of Circuit Court
CA	25%	6 years from date overpayment notice mailed	Yes	No <sup>2</sup>	No
CO	25%	No	Yes	Yes	No
CT	50%; if WBA <\$100, then 25%	No; may write off as uncollectible after 8 years	Yes	Yes	No
DE	50%	5 years from end of BY	Yes	Yes	No
DC	100%	No	Yes <sup>1</sup>	Yes	No
FL	100%	Commenced within 7 years from date overpayment is established	No	Yes	No, unless and until a civil judgment is entered
GA	50%	7 years from release date of the notice of determination and overpayment	Yes	Yes	No
HI	100%	2 years from date of mailing notice of redetermination or final appeal decision; after, may offset % agreed to by individual	No	Yes	No
ID	100%	No	Yes	Yes	Yes
IL	25%	5 years from date overpayment decision issued	Yes	Yes	No
IN	100%; if agency error, then 50%	No	Yes	Yes	No
IA	100%	10 years from date of last activity	Yes	No	No
KS	100%	No	Yes	Yes	1.5% per month if 2 years old
KY	25%	5 years from last day of BY	Yes	Yes	No
LA	100%	No	Yes	Yes	No
ME	10% of 1 <sup>st</sup> \$100 WBA; 50% of rest	No	Yes	No	1% per month starting 1 year after decision is set up in system
MD	100%	No	Yes	Yes	No
MA	100%; 50% if nonfault and individual requests	No	Yes	Yes <sup>2</sup>	No

## OVERPAYMENTS

TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds	Civil Action Permitted	Interest Assessed
	Offset Against Future Benefits	Number of Years Limited			
MI	Up to 20%	3 years from date of payment	Yes	Yes	Yes, starting 1 year after determination is final
MN	50%	6 years from date overpayment is determined	Yes <sup>1</sup>	Yes	No
MS	100%	5 years from last day of week overpaid	Yes	Yes	1% per month on principal balance after 1 <sup>st</sup> full month overpayment established
MO	100%	No; may write off as uncollectible after 5 years of no activity	Yes	Yes	No
MT	50%; higher if individual permits	5 years; must file lien against individual's real and personal property to extend to 10 years	Yes	No	Yes
NE	Any amount per week and any amount up to MBA	3 years from end of BYE in which overpaid weeks were paid	Yes	Yes	No
NV	50%	5 years from date overpayment established	No	No	No
NH	1% - 10%	10 years from date overpayment decision is final	No	Yes	1% per month on principal balance from 1 <sup>st</sup> day of month after decision if not paid within 60 days
NJ	100% or 50%	No	Yes <sup>1</sup>	Yes	2% annually 6 months after debt established if no formal payment agreement
NM	100%; 50% or 75% if request approved	No	Yes	Yes	No
NY	50%	No	Yes	No	No
NC	50%	No	Yes	Yes <sup>2</sup>	No
ND	Minimum 50%	No	Yes <sup>1</sup>	Yes	18% starting 180 days after establishment of overpayment or 180 days from date of final appeal determination
OH	100%	3 years from date decision is final	Yes	No	No
OK	100%	No; except for administrative error, 1 year from expiration of BY current at time overpayment established	Yes; administrative error	Yes; administrative error	1% per month starting date overpayment determined
OR	100%	5 years from week decision became final for nonfault or nonfraud overpayments; no time limit for fault overpayments	Yes (if fault overpayment) <sup>1</sup>	Yes	If fault, 1% per month from 1 <sup>st</sup> day of month following 60 days after final decision

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**TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS**

State	Benefit Offset		Offset with State Tax Refunds	Civil Action Permitted	Interest Assessed
	Offset Against Future Benefits	Number of Years Limited			
PA	33⅓% (nonfault); 100% (fault)	4 (nonfault), 7 (fault) years from date of application for benefits	No	Yes	Computed annually based on the IRS rate
PR	50%	5 years from date overpayment established	No	No	No
RI	100%	No	Yes	Yes	No
SC	100%	No	Yes	No	No
SD	100%	No	No	Yes	12% per year upon establishment of fault overpayment or 6 months after establishment of nonfault overpayment
TN	100%	After the expiration of 6 years from overpayment determination	No	Yes	No
TX	100%	No limit for overpayment absorptions on subsequent BYs	No	Yes	1% per month from 30 days after served (when becomes judgment)
UT	50% (nonfault) or 100% (fault)	If nonfault, 3 years from date decision is final; if fault, 8 years from effective date of judgment lien	Yes (fault only)	Yes (fault only)	No, unless it goes to judgment
VT	100%	5 years from determination date	Yes <sup>1</sup>	Yes	No
VA	100%; 50% if administrative error <sup>3</sup>	No	Yes	Yes	No
VI	Depends on amount and ability of individual to repay	2 years from date overpayment was established	Yes <sup>1</sup>	Yes	No
WA	50% (up to 100% depending on claimant request)	No	No	Yes	1% per month (simple interest) after ≥ 2 minimum monthly payments are delinquent
WV	100%	5 years from last day of week overpaid	Yes	No	No
WI	100%	No	Yes <sup>1</sup>	Yes	No
WY	100%	First 5 years from effective date of claim resulting in overpayment	Yes	Yes	No

<sup>1</sup> AZ, DC, MN, NJ, ND, OR, VT, VI, and WI - provision found in non-UI law (all other states' provision found in UI law).

<sup>2</sup> CA - summary judgment proceedings may be initiated if the claim was based solely on income received as an elected official; MA and NC - do not pursue civil action based on policy.

<sup>3</sup> If overpayment due to administrative error an individual is allowed to repay solely by voluntary repayment agreement, and the agency will not resort to any other methods of collection unless the individual breaches the agreement.

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### FRAUD PROVISIONS

**RECOVERY PROVISIONS, FINES, AND CRIMINAL PENALTIES**—For fraud, including willful misrepresentation and concealment of facts, states utilize the same methods to recover overpayments as they do for nonfraud overpayments. Most states allow criminal prosecution, which can lead to fines and prison sentences. Federal law requires a mandatory penalty assessment for fraudulent claims of not less than 15 percent of the amount of the erroneous payment against claimants committing fraud in connection with state and/or federal UC programs. States may impose civil penalties in excess of 15 percent, but collection of the first 15 percent must be immediately deposited into the state’s account in the unemployment trust fund.

Although UI benefit fraud typically involves an individual’s attempt to obtain or increase benefits, it also includes employers who attempt to prevent or reduce benefits to eligible individuals, and employers who help an individual attempting to fraudulently claim benefits. The following table reflects state law provisions on how states treat benefit fraud. Refer to Chapter 5, *Nonmonetary Eligibility*, for additional information on disqualification periods for fraud and misrepresentation.

TABLE 6-3: TREATMENT OF FRAUD								
State	Recovery of Overpayments Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed By	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	Claimant	Employer
	Reduction in WBA	Number of Years Limited						
AL	100%	6 years from date overpayment is final	Yes	2% per month	4 x WBA to maximum benefit amount; 15% of overpayment	\$50 – \$500	1 to 20 years under Classes B & C felony charges <sup>1</sup>	1 year
AK	100%	No	Yes	No	50% of each fraud overpayment	X <sup>1</sup>	5 years	X <sup>1</sup>
AZ	100%	No	Yes <sup>2</sup>	10% per year	15% of overpayment	\$2,500	Depends on individual’s record	6 months
AR	100%	No	Yes	10% per year	50% of overpayment (15% if repaid within 30 days)	\$20 – \$200	60 days	60 days
CA	100%	6 years from mailing	Yes	7% until summary judgment filed; 10% until paid in full	30% of overpayment	\$20,000	1 year minimum	1 year minimum
CO	100%	No	Yes	No	\$25 - \$1,000 fine; 65% of overpayment penalty	\$25 – \$1,000 <sup>3</sup>	6 months	6 months
CT	100%	8 years	Yes	1% per month	50% 1 <sup>st</sup> offense; 100% subsequent offense	X <sup>1</sup>	1 year minimum	1 year minimum
DE	100%	5 years from end of benefit year	Yes	18% per year	\$23 - \$57.50 fine; 15% of overpayment	\$20 – \$200	60 days	60 days
DC	100%	No	Yes <sup>2</sup>	No	Up to \$100 fine; 15% of overpayment	\$1,000	60 days	6 months
FL	100%	Commenced within 7 years from date established	No	No, unless and until a civil judgment is entered	15% of overpayment	\$5,000	5 years	5 years

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**TABLE 6-3: TREATMENT OF FRAUD**

State	Recovery of Overpayments Through Offset		Monetary Assessments				Max Prison Time Imposed When Fraud Committed By	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	Claimant	Employer
	Reduction in WBA	Number of Years Limited						
GA	100%	7 years from release date of notice of determination and overpayment	Yes	1% per month	15% of overpayment	Up to \$1,000 for basic fraud; at least \$1,000 for multiple counts	12 months per count	X <sup>1</sup>
HI	100%	2 years from mailing or final appeal decision; after, if individual agrees (percentage up to individual)	No	No	Up to \$10,000 fine; 15% of overpayment	Up to \$10,000	5 years	1 year
ID	100%	8 years from final determination date	Yes <sup>2</sup>	Yes	25% 1 <sup>st</sup> instance; 50% 2 <sup>nd</sup> instance; 100% 3 <sup>rd</sup> instance and subsequent	\$20 – \$200 and 10 x WBA	X <sup>1</sup>	X <sup>1</sup>
IL	100%	No	Yes <sup>2</sup>	No, unless suit filed and judgment entered; then 9% per year	15% of overpayment	Up to \$500	180 days	180 days
IN	100%	No	Yes	0.5% per month	25% 1 <sup>st</sup> instance; 50% 2 <sup>nd</sup> instance; 100% 3 <sup>rd</sup> instance and subsequent; 15% of overpayment penalty	X <sup>4</sup>	6 – 36 months or 2 – 8 years	6 – 36 months or 2 – 8 years
IA <sup>6</sup>			Yes	No	15% of overpayment	50% of tax owed	10 years	
KS	100%	No	Yes	1.5% per month	25% of overpayment	\$20 – \$200	60 days	60 days
KY	100%	10 years from end of applicable BY	Yes	1.5% per month	Up to \$10,000 fine; 15% of overpayment	\$500 – \$10,000	1 – 5 years	1 – 5 years
LA	100%	No	Yes	No	Penalty is greater of \$20 or 25% of overpayment balance	\$50 – \$1,000	10 years	30 – 90 days
ME	100%	No	Yes	1% per month	50% 1 <sup>st</sup> incident, 75% 2 <sup>nd</sup> incident, 100% other incidents	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>
MD	100%	No	Yes	1.5% per month	Up to \$1,000 fine; 15% of overpayment	Up to \$1,000	90 days	90 days
MA	100%	No	Yes	1% per month until total interest = 50% of overpayment	\$1,000 – \$10,000 fine; 15% of overpayment	\$2,500 – \$10,000	6 months to 5 years	1 year

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**TABLE 6-3: TREATMENT OF FRAUD**

State	Recovery of Overpayments Through Offset		Monetary Assessments				Max Prison Time Imposed When Fraud Committed By	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	Claimant	Employer
	Reduction in WBA	Number of Years Limited						
MI	100%	3 years from overpayment	Yes	Yes	100% 1 <sup>st</sup> instance; 150% 2 <sup>nd</sup> instance overpayment amount <sup>5</sup>	100% 1 <sup>st</sup> instance; 150% 2 <sup>nd</sup> instance	1 year	1 year
MN <sup>7</sup>			Yes <sup>2</sup>	1% per month	40% of overpayment	X <sup>1</sup>	20 years	20 years
MS	100%	5 years from last week overpaid	Yes	1% per month	\$100 – \$500 fine; 20% of overpayment	\$100 – \$1,000	30 days for each fraudulent week	6 months
MO	100%	No; may write off as uncollectible after 5 years of no activity	Yes	No	25% – 100% of overpayment	25% – 100% of fraudulent amount	6 months for each violation	6 months for each violation
MT	100%	5 years; 10 years if lien filed	Yes	Yes	50% of overpayment	\$50 – \$500	Depends on recommendation of district attorney or employer	30 days for each false statement
NE	100%	3 years from end of applicable BY	Yes	No	Up to \$500 fine; 15% of overpayment	Up to \$500	90 days for each count	90 days
NV	100%	10 years from date overpayment established	No	Civil judgments only (6% per year)	15% of overpayment <sup>8</sup>	\$2,000	10 years	10 years
NH	1% – 10%	10 years from date overpayment decision is final	No	1% per month	Up to \$4,000 fine; 20% of overpayment	Up to \$100,000	15 years	15 years
NJ	100%	No	Yes <sup>2</sup>	5% for CY 2009	25% of total overpayment	\$100 to \$1,000 per offense	Decided by court	90 days
NM	100%	No	Yes	No	Up to \$100; 25% of overpayment	Up to \$10,000	30 days	30 days
NY	100%	No	Yes <sup>2</sup>	9% per year (civil action only)	Up to \$500; the greater of \$100 or 15% of overpayment	\$500	1 year	1 year
NC	100%	No	Yes	No	Up to \$200 fine; 15% of overpayment <sup>1</sup>	Up to \$200	2 years	2 years
ND	100%	No	Yes <sup>2</sup>	18% per year	\$1,500 fine; 15% of overpayment	\$1,000	10 years	30 days
OH	100%	6 years from date overpayment is final	Yes	14% per year	Up to \$1,000; 25% of overpayment	Up to \$1,000	6 months	6 months
OK	100%	No	Yes	1% per month	Up to \$500 fine each week after conviction; 25% of overpayment	\$50 – \$500	6 months	90 days
OR	100%	No	Yes <sup>2</sup>	1% per month	15 – 30% of overpayment	\$100 – \$500	X <sup>1</sup>	90 days



## OVERPAYMENTS

**TABLE 6-3: TREATMENT OF FRAUD**

State	Recovery of Overpayments Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed By	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	Claimant	Employer
	Reduction in WBA	Number of Years Limited						
PA	100%	10 years from date applied for benefits	No	Computed annually based on IRS rate	\$500 - \$1,500 fine; 15% of overpayment	\$100 – \$1,500 per offense	30 days per week illegally claimed	30 days per offense
PR	100%	5 years from date established	No	No	15% of overpayment <sup>1</sup>	\$1,000	X <sup>1</sup>	1 year
RI	100%	No	Yes	1.5% per month	Greater of \$1,000 or double value of fraud; 15% of overpayment	Greater of \$1,000 or double value of fraud	1 year	1 year
SC	100%	No	Yes	No	\$50 - \$250 fine; 25% of overpayment	\$20 – \$100	30 days for each offense or week claimed	30 days
SD	100%	No	No	12% per year	Up to \$2,000 fine (higher fine if amount obtained > \$200); 50% 1 <sup>st</sup> instance; 100% any subsequent instance overpayment amount	\$1,000	1 or 2 years	1 or 2 years
TN	100%	No	No	1.5% per month	30% 1 <sup>st</sup> instance; 50% any subsequent instance overpayment amount	X <sup>1</sup>	1 year minimum	1 year minimum
TX	100%	No	No	1% per month	Up to \$4,000 fine; 15% of overpayment	\$4,000	Depends on whether prosecuted as misdemeanor or felony	X <sup>1</sup>
UT	100%	No	Yes <sup>2</sup>	No, unless it goes to judgment	Up to \$10,000 fine; 100% of overpayment	Up to \$20,000	15 years	15 years
VT	100%	5 years from determination date	Yes <sup>2</sup>	No	Up to \$5,000 fine <sup>9</sup> ; 15% of overpayment	Up to \$50	30 days	30 days
VA	100%	No	Yes <sup>2</sup>	No	Up to \$2,500 fine; 15% of overpayment	Up to \$1,000	1 year	1 year
VI	Depends on amount and ability of individual to repay	2 years from date overpayment is final	No	No	\$50 – \$200 fine	\$50 – \$200	60 days	60 days
WA	100%	No	No	1% per month	\$20 – \$250 fine; 15% 1 <sup>st</sup> instance; 25% 2 <sup>nd</sup> instance; 50% any subsequent instance overpayment amount	\$20 – \$250	90 days	90 days
WV	100%	10 years from last week overpaid	No	Yes	\$100 – \$1,000 fine; 20% of overpayment	\$20 – \$200	30 days	30 days

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**TABLE 6-3: TREATMENT OF FRAUD**

State	Recovery of Overpayments Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed By	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	Claimant	Employer
	Reduction in WBA	Number of Years Limited						
WI	100%	No	Yes <sup>2</sup>	No	Up to \$25,000 fine; 40% – 100% of overpayment depending on facts of fraud	Up to \$25,000	Up to 10 years	Up to 10 years
WY	100%	No	Yes	No	20% of overpayment and additional 5% of unpaid balance every 6 months thereafter until paid	\$750	5 years	5 years

GENERAL NOTES: All states allow civil action to recover fraud overpayments except **AK, MA, NE, NC, PR,** and **SC**. All states may impose monetary assessments and prison time on employers who fraudulently act to prevent or reduce an individual's benefits. In addition, some states may impose assessments/prison time for abetting an individual's fraudulent receipt of benefits. Where these penalties are variable depending on certain circumstances, the higher is shown.

<sup>1</sup> **AL, AK, CT, GA, ID, ME, MN, NC, OR, PR, TX,** and **WV** - penalty assessed under misdemeanor or felony statutes. Also, for **AL** - in lieu of fines, if found guilty required to pay restitution in at least the amount of benefits fraudulently obtained.

<sup>2</sup> **AZ, DC, ID, IL, MN, NJ, NY, ND, OR, UT, VT, VA,** and **WI** - provision found in non-UI law.

<sup>3</sup> Individual receives 1.5 x benefits due for weeks delayed, thus increasing employer's experience rate.

<sup>4</sup> The employer is assigned the rate for the year in which the violation occurred and the following 3 years. If employer is already paying the highest rate at the time of the violation, or the increase in the contribution rate described in this table is less than 2%, the employer will pay an additional 2% of the employer's taxable wages for the year in which the violation occurred and the following 3 years.

<sup>5</sup> Overpayment made through identity theft 4 x overpayment amount.

<sup>6</sup> **IA**-Recovery of benefits fraudulently obtained requires a lien be filed against the individual's property and rights to property, whether real or personal.

<sup>7</sup> **MN**-Benefit offset not possible since individuals committing fraud are ineligible for benefits until they fully repay the amount owed.

<sup>8</sup> May impose additional penalties: 5% if overpayment >\$25 to \$1,000; 10% if overpayment >\$1,000 to \$2,500; 35% if overpayment >\$2,500;

<sup>9</sup> If not prosecuted, 1 week of penalty is assessed for every week of fraud; however, if fraud is committed within the past 3 calendar years, and fraud is committed again, 2 weeks of penalty is assessed for each week of fraud. Limited to no more than 26 penalty weeks in any BY.

## WRITE-OFF OF OVERPAYMENTS

After exhausting its options to recover overpayments, most states will permit the UI agency to write off certain types of overpayments; meaning the agency will cancel the debt as being uncollectible. Writing off an overpayment is not the same as a state waiving recovery of an overpayment. Waiving recovery of an overpayment typically involves the state determining the claimant was not at fault in causing the overpayment and recoupment would be against equity and good conscience. The criteria for writing off overpayments vary. Usually, it depends on how long the overpayment has been outstanding (*i.e.*, age of the overpayment). However, most states have established additional criteria. The following table provides information on states' write-off provisions.

**TABLE 6-4: STATE OVERPAYMENT WRITE-OFF CRITERIA**

State	Nonfraud		Fraud	
	Age Requirement	Other Criteria	Age Requirement	Other Criteria
AL <sup>1</sup>	6 years from final decision	Bankruptcy or death	6 years from final decision	Death
AK <sup>2</sup>	2 years from last payment	Death	2 years from last payment	Death
AZ <sup>1</sup>	5 years from final decision			Bankruptcy or death

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**TABLE 6-4: STATE OVERPAYMENT WRITE-OFF CRITERIA**

State	Nonfraud		Fraud	
	Age Requirement	Other Criteria	Age Requirement	Other Criteria
AR		Death		Death
CA <sup>1,2</sup>	6 years and 1 month from overpayment mail date; if judgment, 10 years and 1 month from judgment	Immediately if overpayment ≤\$9.99 and no payment activity for 6 months	6 years and 1 month from overpayment mail date; if judgment, 10 years and 1 month from judgment	Immediately if overpayment ≤\$9.99 and no payment activity for 6 months
CO <sup>1,2</sup>	5 years from determination that debt is uncollectible	Administratively impracticable to collect	7 years from determination that debt is uncollectible	Administratively impracticable to collect
DE <sup>2</sup>	3 years	Overpayment debt is wholly or partly uncollectible	3 years	Overpayment debt is wholly or partly uncollectible
DC <sup>1</sup>	3 years after BY ending date	No claim with current BY and balance, and no repayment within 180 days	3 years after BY ending date	No claim with current BY and balance, no repayment within 180 days, case referred for prosecution
FL <sup>1</sup>	2 years from establishment	Bankruptcy or death	5 years from establishment	Bankruptcy or death
GA <sup>1</sup>	3 years older than 1 <sup>st</sup> day of current quarter		4 years older than 1 <sup>st</sup> day of current quarter and last transaction is 1 quarter old	
ID <sup>2</sup>	5 years from final decision	Bankruptcy or death	8 years from final decision	Death
IL <sup>2,3</sup>		If uncollectible		Legally uncollectible
IN <sup>2</sup>	3 years from BY of claim; civil judgment extends by 10 years (can extend again)		6 years from BY of claim; civil judgment extends by 10 years (can extend again)	
IA <sup>2,3</sup>	10 years from last activity		10 years from last activity	
KS <sup>1</sup>	5 years from last transaction		10 years from last transaction	
KY <sup>2</sup>	5 years from last day of BY		10 years from last day of BY	Not if individual has been prosecuted for offense
LA <sup>2</sup>	5 years from BY of overpaid claim and from last acknowledgement of debt or penalty assessment	Bankruptcy	10 years from determination date and from last acknowledgement of debt or penalty assessment	Bankruptcy
ME <sup>1</sup>	6 years from establishment	<\$25	6 years from establishment	<\$25
MD <sup>1</sup>	5 years from establishment		5 years	
MA <sup>1,2</sup>	5 years from last claim for benefits	No further contact with individual	5 years from last claim for benefits	No further contact with individual; after review and approval of Commissioner
MI <sup>1</sup>	3 years from determination date unless civil action filed, individual made false statement, or determination requires restitution; 10 years if judgment		6 years from determination date unless civil action filed, individual made false statement, or determination requires restitution; 10 years if judgment	
MN <sup>2</sup>	6 years from date determined	Bankruptcy or death	10 years from date determined	
MS <sup>2</sup>	5 years from last day of week overpaid		5 years from last day of week overpaid	
MO <sup>2</sup>	5 years from establishment with no activity	Must be uncollectible	5 years from establishment with no activity	Must be uncollectible
MT <sup>2</sup>	5 years from establishment; 10 years with lien	Bankruptcy or death	5 years from establishment; 10 years with lien	

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**TABLE 6-4: STATE OVERPAYMENT WRITE-OFF CRITERIA**

State	Nonfraud		Fraud	
	Age Requirement	Other Criteria	Age Requirement	Other Criteria
NE <sup>1,3</sup>		Bankruptcy, death, incarcerated 5+ years, or can't be located and overpayment 10+ years		Bankruptcy, death, incarcerated 5+ years, or can't be located and overpayment 10+ years
NV <sup>2</sup>	3 years from establishment		3 years from establishment	
NH <sup>2,3</sup>		If in best interest of state		If in best interest of state
NJ <sup>2</sup>	6 months to 1 year from date of delinquency	Depends on date of last payment, proof and date of individual contact	6 months to 1 year from date of delinquency	Depends on date of last payment, proof and date of individual contact
NY <sup>1</sup>	6 years from latest action		6 years from latest action on overpayment; if judgment, 20 years from date judgment filed	
NC <sup>2</sup>		Death		Death
ND <sup>1</sup>		Bankruptcy, death, inability to locate claimant, or current status of employment		
OH <sup>2</sup>	3 years from final decision		6 years from final decision	
OK <sup>2</sup>	1 year from end of current BY when overpayment established	Administrative error only		
OR <sup>2</sup>	5 years from final decision; if nonfault overpayment, after 5 years	≤ state max WBA or uncollectible; also, must be no payments within last 3 months	5 years from final decision	≤ 1/2 state max WBA or uncollectible; also, must be no payments within last 3 months; not if conviction
PA <sup>2</sup>	If nonfault, 4 years from application for benefits date; 7 years if fault	Not written off if liened	10 years from application for benefits date	Not written off if liened
PR <sup>2</sup>	5 years from establishment	Bankruptcy or death	5 years from establishment	Bankruptcy or death
RI <sup>1</sup>	5 years from detection and no refund activity	Bankruptcy, death, or any overpayment ≤ \$100; system allows reactivation of overpayment if individual files a claim and/or starts to repay	5 years from detection and no refund activity	Bankruptcy, death, or any overpayment ≤ \$100; system allows reactivation of overpayment if individual files a claim and/or starts to repay
SC <sup>2</sup>	5 years from establishment		6 years from establishment	
SD <sup>2</sup>		Bankruptcy or death and 10 years or more		Bankruptcy or death and 10 years or more
TN <sup>2</sup>	6 years from establishment		6 years from establishment	
UT <sup>3</sup>	Fault overpayments subject to accounting write-off after 3 years if deemed uncollectible; mandatory write-off as to offset at 8 years	Nonfault overpayments	Accounting write-off after 3 years if deemed uncollectible; no write-off as to benefit eligibility	
VT <sup>2</sup>	5 years from determination date; if judgment order, 8 years from judgment date	Bankruptcy or death	5 years from determination date; if judgment order, 8 years from judgment date	Bankruptcy or death
VA <sup>2</sup>	7 years from determination date	Bankruptcy or death	7 years from determination date	Bankruptcy or death

## OVERPAYMENTS

**TABLE 6-4: STATE OVERPAYMENT WRITE-OFF CRITERIA**

State	Nonfraud		Fraud	
	Age Requirement	Other Criteria	Age Requirement	Other Criteria
VI <sup>1</sup>	2 years from final decision	Deceased w/o assets, incarcerated for a long time, permanently disabled or physically unable to work and w/o assets, is no longer in VI, or cannot be located		
WA <sup>2</sup>		No cost-effective means of collecting		No cost-effective means of collecting
WV <sup>2</sup>	5 years from last day of week overpaid	Bankruptcy or death	10 years from last day of week overpaid	Bankruptcy or death
WI <sup>1</sup>	7 years from decision	Bankruptcy or death with no assets; no collection activity in 3 years; no assets or wages found	7 years from decision	Bankruptcy or death with no assets; no collection activity in 3 years; no assets or wages found
WY <sup>2</sup>	8 years from effective date of claim; can write off any time if deceased with no assets or insolvent with no assets	Cannot locate, totally unable to work, and covered wages < ½ of average state weekly wage		Cannot locate, totally unable to work, and covered wages < ½ of average state weekly wage

GENERAL NOTE: For additional information, consult state law, regulations, and policy. CT, HI, NM, and TX - are not included in this table because they do not write-off overpayments.

<sup>1</sup> Write-off provisions found in policy.  
<sup>2</sup> Write-off provisions found in law.  
<sup>3</sup> Write-off provisions found in regulation.