

**WAC 192-640-015 When can the department waive an overpayment?**

(1) An employee who is determined to have an overpayment must repay the full amount of the overpayment unless a waiver is granted. The decision to waive an overpayment at all times rests with the department.

(2) An employee may be eligible for a waiver of an overpayment when the employee is not considered at fault and it would be against equity and good conscience for the department to require the employee to repay the full amount.

(3) When the department identifies an overpayment, the department will send an application for a waiver to any potentially eligible employees.

(4) An employee may request an application for a waiver of an overpayment if one was not already provided by the department, and if the employee's overpayment is not a result of fraud, conditional payment, or fault attributable to the individual.

(5) The waiver application will request information concerning the employee's financial situation or other circumstances which will help the department determine if the overpayment should be waived.

(6) The financial information requested may include, but is not limited to, documentation for the previous month, current month, and following month of the employee's household:

(a) Income and, to the extent available, the income of other household members who contribute financially to the household;

(b) Expenses; and

(c) Readily available liquid assets including, but not limited to, checking and savings account balances, stocks, bonds, and cash on hand.

(7) The completed waiver application and supporting documents must be returned to the department by the response deadline indicated in the overpayment assessment, which will be no less than ten working days. Reasonable mailing time will be added when the overpayment assessment is sent via postal service. If information is not provided by the deadline, the department will make a decision about the employee's eligibility for a waiver based on the available information.

(8) Any waived overpayment amount is considered paid to the employee and will count against the employee's available leave. A waiver cannot exceed the total amount of leave available on a claim. The department will not waive an overpayment to allow the employee more leave than the employee was originally eligible to receive.

(9) If a waiver is approved based on information from the employee, or on behalf of the employee, that is later determined by the department to be false or misleading, the waiver could be void and the amount previously waived will be considered overpaid again. The determination to make a waiver void is subject to appeal.

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-640-015, filed 7/31/19, effective 8/31/19.]