

WAC 192-640-020 How will equity and good conscience be applied in overpayment waiver decisions?

(1) It is against equity and good conscience to deny a waiver request when repayment of the overpayment would create hardship for an employee to provide for basic needs such as food, shelter, medicine, utilities, and related expenses. Except in unusual circumstances, the department will presume repayment would leave the employee unable to provide basic needs if total household resources in relation to household size do not exceed seventy percent of the applicable lower living standard income level (LLSIL) and circumstances are not expected to change within the next ninety days.

(2) The department may also consider, but is not limited to, the following factors in determining whether waiver should be granted for reasons of equity and good conscience:

(a) The employee's general health, including disability, competency, and mental or physical impairment;

(b) The employee's education level, including literacy;

(c) The employee's ability to repay the overpayment based on employment or financial resources;

(d) The employee's marital status and number of dependents, including whether other household members are employed;

(e) Whether an error by department staff contributed to the overpayment; and

(f) Other factors indicating that repayment of the full amount would cause the employee undue economic, physical, or mental hardship.

(3) When determining whether a waiver of benefit overpayments may be granted based on equity and good conscience, the department must consider whether the employer or employer's agent failed to respond to the department timely or adequately without good cause. This subsection does not apply to negotiated settlements.

(4) The decision to grant or deny waiver will be based on the totality of circumstances rather than the presence of a single factor listed in subsections (1) through (3) of this section.

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-640-020, filed 7/31/19, effective 8/31/19.]