

**WAC 296-14-200 Waiver of recovery for worker compensation benefits overpayments.** Whenever the director determines whether to exercise the discretion granted by RCW 51.32.240 (1), (2) or (3) or 51.32.220(6) the following shall apply:

(1) The decision of the director shall apply to the state fund or to the self-insurer, as the case may be.

(2) In the case of recoupment of an overpayment from any future payments, the director will entertain a request to exercise his or her discretion to waive recovery up to sixty days after communication of the order and/or notice to the recipient that benefits are being withheld to satisfy the previous overpayment.

(3) A finding by the director that recovery of an overpayment would be against equity and good conscience shall be required before the overpayment can be waived in whole or in part. The director shall consider the following factors and any other factors relevant to the particular case:

(a) Whether the claimant was without fault in applying for and accepting benefits which gave rise to the overpayment;

(b) Whether recovery of the overpayment, in whole or in part, would defeat the purposes of Title 51 RCW;

(c) Whether the claimant reasonably relied upon the benefits, or notice that such benefits would be paid and relinquished a valuable right or changed his or her position for the worse;

(d) Whether the claimant reasonably relied upon misinformation from an official source (i.e., a representative of the department or self-insurer, as the case may be) in accepting the benefit payment which gave rise to the overpayment.

(4) The claimant's application for waiver of an overpayment contemplated under RCW 51.32.240 (1), (2), or (3), or 51.32.220(6) shall clearly set forth the reason(s) that he or she believes that recovery of the overpayment in whole or in part, as the case may be, is against equity and good conscience.

[Statutory Authority: RCW 51.32.060, 51.32.090, 51.32.160, 51.21.220(6) [51.32.220(6)] and 51.32.240 (1), (2) or (3). WSR 86-18-036 (Order 86-33), § 296-14-200, filed 8/28/86.]