



ADMINISTRATIVE RULES OF MONTANA



24.40.1109 WAIVER OF OVERPAYMENT RECOVERY

- (1) Once a decision that resulted in a benefit overpayment becomes final, a claimant may request that the department waive recovery of the benefit overpayment by writing or calling the department to request assistance.
- (2) The department must deny waiver of benefit overpayment recovery that resulted from fraud pursuant to ARM 24.40.1101, or if a claimant is at fault by concealing or misrepresenting material facts. A claimant concealed or misrepresented material facts for purposes of this rule, even if unintentionally, in circumstances including, but not limited to, the following:
 - (a) before benefits were paid, the claimant failed to report or misrepresented a fact or circumstance regarding benefit eligibility or qualification;
 - (b) the claimant failed to read or respond to the department's requests for information, questions, or other communications that were necessary to determine the claimant's eligibility and qualification for benefits;
 - (c) the claimant failed to report or incorrectly reported a separation from employment while requesting benefits; or
 - (d) the claimant failed to report or incorrectly reported all hours and earnings from any insured employer during any week the claimant worked and requested benefits.
- (3) The department may waive recovery of all or a portion of a benefit overpayment when a claimant meets the requirements of (1) and (2) and one or more of the following circumstances exist:
 - (a) benefit overpayment was the result of an incorrect monetary determination by the department due to minor errors in employer reporting;
 - (b) benefit overpayment resulted from department failure to consider relevant written documentation provided in a timely manner by a claimant, employer, or third party prior to the department's determination or redetermination;
 - (c) benefit overpayment resulted from claimant's reliance upon erroneous written information provided by department; or
 - (d) recovery of the benefit overpayment would cause a long-term financial hardship on the claimant pursuant to ARM 24.40.1111.
- (4) Benefit overpayment does not constitute department error when the implementation of new state or federal law requires the department to revise a claimant's state benefit claim or monetary determination and to reduce or deny benefits retroactively.

- (5) After consideration of a claimant's request for waiver, including a financial hardship waiver, the department shall notify the claimant of the waiver determination to grant or deny the request.
- (6) Repayment of a benefit overpayment by offset of benefits shall continue until the department's waiver determination becomes final. If the waiver determination approves claimant's request for waiver, the department shall reimburse claimant for repayments collected after the date the claimant's written request for waiver was received by the department.

Authorizing statute(s): 39-51-301, 39-51-302, MCA

Implementing statute(s): 39-51-3206, MCA

History: NEW, 2024 MAR p. 1458, Eff. 7/1/24.