

CHAPTER 6

OVERPAYMENTS

IN GENERAL

This chapter deals with state law provisions that pertain to identifying, establishing, and collecting UI benefit overpayments. All states' laws have provisions addressing these matters. A state's law generally differs in the treatment of overpayments in which the claimant is not at fault and overpayments in which the claimant has committed fraud or willful misrepresentation, or concealed material facts. In addition, the state laws contain provisions for fines and imprisonment for willfully or intentionally misrepresenting or concealing facts which are material to a determination concerning the worker's entitlement to benefits.

NONFRAUD PROVISIONS

WAIVERS—Some states provide that, if the overpayment is without fault on the individual's part, the individual is not liable to repay the amount overpaid. The following table lists the states that waive certain nonfraud overpayments.

TABLE 6-1: WAIVER OF NONFRAUD OVERPAYMENTS	
State	Additional Information
AK	If timely request, received benefits in good faith, and repayment would be against equity and good conscience.
AZ	If hardship to repay.
AR	If not the fault of the claimant and repayment would be against equity and good conscience.
AR	None.
CA	If nonfault OP. If claimant has change of position and extraordinary hardship.
CO	Depending upon financial condition, future earnings potential, whether claimant detrimentally changed position in reliance on OP. If claimant relinquished rights to other governmental benefits to which would have been entitled.
CT	If claimant died, can't secure full time job because of health, overpaid by retrospective application of legislation change, appeal reversal and didn't receive adequate notice to repay benefits, reliance upon the receipt of benefits, admin error, or OP equal or greater than 2 x WBA at time OP made and annualized family income within last 6 months is \leq 150% poverty level.
DC	If nonfault OP and recovery of OP would place an extraordinary financial hardship on claimant.
FL	If OP is result of ER failure to respond timely to claim notice.
GA	If recovery would cause direct impact or loss of ability to obtain minimal necessities of food, medicine, and shelter. (If recommendation from Hearing Officer, Court findings, and by virtue of discharge in bankruptcy.)
HI	If nonfault OP and recovery would be against equity and good conscience.
ID	If departmental error or if employer misreported wages and claimant could not have been reasonably expected to have recognized error.
IN	The benefits were the result of payments made during the pendency of an appeal before an administrative law judge or the review board under which the individual is determined to be ineligible for benefits or because of an error by the employer or the department; and repayment would cause economic hardship to the individual. This applies only to claims filed against non-reimbursable employers.

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TABLE 6-1: WAIVER OF NONFRAUD OVERPAYMENTS	
State	Additional Information
IA	Benefits paid not as the result of fraud or willful misrepresentation, if the employer did not participate in the initial determination and overpayment occurred as a result of a subsequent reversal on appeal.
KS	Extreme hardship or fault of the agency.
LA	If nonfault OP and recovery would defeat purpose of benefits otherwise authorized (such as cases of extreme financial hardship).
ME	If nonfault OP and inability to pay upon Commission approval.
MD	If timely request; nonfault OP; result of agency error, employer error, agency redetermination, or appeal; claimant must lack ability to repay; household income must be below Federal minimum poverty level for family size and area of residence, and OP can't be over 1 year old unless pending appeal outcome.
MA	If nonfault OP and an economic hardship exists.
MI	OP result of administrative/clerical error and claimant is unable to pay due to indigence.
MN	If an unemployment law judge's order allows benefits because of a quit or discharge, and the decision is reversed by the Minnesota Court of Appeals or the Supreme Court of Minnesota.
MT	Agency error.
NV	Agency error or disability precluding future employment during collection period.
NH	If nonfault OP.
NJ	If nonfault and claimant is deceased, permanently disabled and no longer able to work, or the recovery of the OP would be patently contrary to principles of equity.
NC	Depending on claimant's degree of fault; if against equity and good conscience.
ND	If nonfault OP and extreme financial hardship.
OH	If typographical or clerical error in decision, or error in employer's report.
RI	If nonfault OP.
SC	If agency or employer error. Also depends on claimant's ability to repay.
SD	If nonfault OP, inability to repay (AWW for prior 12 months, liquid or readily convertible assets, spousal income, and financial emergencies).
TN	If nonfault OP.
UT	If nonfault OP. Claimant member of household with income \leq 70% Federal "Lower Living Standard Income Level."
VT	OPs not resulting from non-disclosure or misrepresentation by claimant will be waived after fact finding has been conducted.
VI	If nonfault OP.
WA	If against equity and good conscience for Department to require repayment of full amount; if repayment would deprive claimant of income required to provide necessities such as food, shelter, medicine, utilities, and related expenses.
WI	TRA OP when claimant's income is below Federal poverty guidelines.
WY	If nonfault OP and OP was caused by agency error or claimant has extreme financial hardship.

RECOVERY PROVISIONS—All state laws provide for recovering benefits paid to workers who later are found not to be entitled to them. In addition to direct repayment, states utilize several tools to recoup these funds. States may, at the discretion of the agency, recover overpayments by deducting from future benefits payable (benefit offset). In December 2010, states acquired the ability to recover overpayments from an individual's Federal income tax refund through the Treasury Offset Program. They also may offset overpayments with state tax refunds due to the worker, or they can compel repayment by pursuing civil action in state court. Finally, some states may assess interest on outstanding overpayment balances. The following table provides information about how states recover nonfraud overpayments.

TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
AL	100%	No	Yes	Yes	No
AK	100%	No	No	No	No

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TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
AZ	50% - 100%	No	Yes	No	10% per year from month after OP established until it is final
AR	100%	4 years from date of final determination	Yes	Yes	10% annually once final OP has force and effect of judgment of circuit court
CA	25%	6 years from date notice mailed	Yes	No	No
CO	25%	No	No	Yes	No
CT	50%; if WBA < \$100, then 25%	No; may write-off as uncollectible after 8 years	No	Yes	No
DE	50%	5 years from end of BY	Yes	Yes	No
DC	100%	No	Yes	Yes	No
FL	100%	3 years from date OP is established	No	Yes	No, unless and until a civil judgment is entered
GA	50%	4 years from date OP is established	Yes	Yes	No
HI	100%	2 years from date of mailing notice of redetermination or final appeal decision. After, may offset % agreeable to claimant	No	Yes	No
ID	100%	5 years from date of final determination	Yes	Yes	No
IL	25%	5 years from date OP decision issued	Yes	Yes	No
IN	100%; if agency error, then 50%	3 years from BYB of claim	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 ³	100%	No	Yes	Yes	No
ME	10% of 1 st \$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 claimant requests	No	Yes	Yes ⁴	No
MI	Up to 20%	3 years from date of payment	Yes	Yes	No
MN	50%	6 years from date OP is determined	Yes	Yes	No
MS	100%	5 years from last day of week overpaid	No	Yes	1% per month on principal balance after 1 st full month OP established
MO	100%	No; may write-off as uncollectible after 5 years of no activity	Yes	Yes	No
MT	50%, higher if claimant permits	5 years; must file lien against claimant's real and personal property to extend to 10 years	Yes	No	No
NE	Any amount per week and any amount up to MBA	3 years from end of BYE on which overpaid weeks were paid	Yes	Yes	No
NV	50%	5 years from date OP established	No	No	No
NH	1% - 10%	10 years from date OP decision is final	No	Yes	1% per month on principal balance from 1 st day of month after decision if not paid within 60 days

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TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
NJ	100% or 50%	No	Yes	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	No	No	No
NC	50%	3 years from date OP is established.	Yes	Yes ⁴	No
ND	Minimum 50%	No	Yes	Yes	18% starting 180 days after establishment of OP 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 OP established.	Yes; administrative error	Yes; administrative error	1% per month starting date OP determined.
OR	100%	1 year from week decision became final for nonfault OPs. No time limit for fault OPs.	Yes (if fault OP)	Yes	If fault, 1% per month from 1 st day of month following 60 days after final decision.
PA	33 $\frac{1}{3}$ % (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 OP 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 OP or 6 months after establishment of nonfault OP.
TN	100%	No	No	Yes	No
TX	100%	No limit for OP absorptions on subsequent BYs.	No	Yes	1% per month from 30 days after served (when becomes judgment).
UT	50% (nonfault); 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	Yes	No
VA	100%; 50% if administrative error.	No	Yes	Yes	No
VI	Depends on amount and ability of claimant.	2 years from date OP was established.	Yes	Yes	No
WA	50%	No	No	Yes	1% per month (simple interest) after \geq 2 minimum monthly payments are delinquent.
WV	100%	5 years from last day of week overpaid.	No	No	No
WI	100%	No	Yes	Yes	No
WY	100%	First 5 years from effective date of claim resulting in OP.	No	Yes	No

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TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
OP: Overpayment					
¹ In <u>AZ</u> , <u>DE</u> , <u>DC</u> , <u>MD</u> , <u>MN</u> , <u>NJ</u> , <u>ND</u> , <u>OR</u> , <u>VT</u> , <u>VA</u> , <u>VI</u> , and <u>WI</u> provision found in non-UI law (all other states' provision found in UI law). ² Provision found in UI law. ³ A penalty of \$20 or 25% of outstanding balance is imposed. ⁴ In <u>MA</u> and <u>NC</u> state does not pursue civil action because of policy.					

FRAUD PROVISIONS

RECOVERY PROVISIONS, FINES, & CRIMINAL PENALTIES—For fraud, including willful misrepresentation generally and concealment of facts, states utilize the same methods to recover overpayments as they do for nonfraud overpayments. However, most states can pursue criminal action in court, which can lead to monetary assessments and prison sentences. Further, states can administratively assess additional monetary fines or penalties. Although UI benefit fraud typically involves a claimant's attempt to obtain or increase benefits, it also includes employers who attempt to prevent or reduce benefits to eligible claimants and employers who abet a claimant's attempt to fraudulently claim benefits. The following table provides information about how states treat benefit fraud.

The following table reflects state law provisions. A state's policy may be different (e.g. it may not, in fact, pursue criminal prosecution) and can change.

TABLE 6-3: TREATMENT OF FRAUD								
State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed:	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
AL	100%	6 years from date OP is final	Yes	No	4 x WBA to maximum benefit amount	\$50 – \$500	1 year	1 year
AK	100%	No	No	No	50% of each fraud OP	X ¹	5 years	X ¹
AZ	100%	No	Yes ²	10% per year	X ¹	\$2,500	Depends on claimant's record	6 months
AR	100%	No	Yes	10% per year	10% of OP	\$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 OP	\$20,000	1 year minimum	1 year minimum
CO	100%	No	No	No	Penalty: 50% of OP. Fine: \$25 – \$1,000	\$25 – \$1,000 ³	6 months	6 months
CT	100%	8 years	Yes	1% per month	X ¹	X ¹	1 year minimum	1 year minimum
DE	100%	5 years from end of benefit year	Yes ²	18% per year	\$20 – \$50	\$20 – \$200	60 days	60 days
DC	100%	No	Yes ²	No	\$200	\$1,000	60 days	6 months
FL	100%	5 years from date established	No	No, unless and until a civil judgment is entered	X ¹	\$5,000	5 years	5 years

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TABLE 6-3: TREATMENT OF FRAUD

State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed:	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
GA	50%	4 years from date established	Yes	1% per month	10% on principal	Up to \$1,000 for basic fraud; at least \$1,000 for multiple counts	12 months per count	X ¹
HI	100%	2 years from mailing or final appeal decision. After, if claimant agrees (percentage up to claimant)	No	No	X ²	\$20 – \$200	5 years	60 days
ID	100%	8 years from final determination date	Yes ²	Yes	25% 1 st instance; 50% 2 nd instance; 100% 3 rd instance and subsequent ²	\$20 – \$200 and 10 x WBA	X ¹	X ¹
IL	100%	No	Yes ²	No, unless suit filed and judgment entered; then 9% per year	Up to \$500	Up to \$500	180 days	180 days
IN	100%	6 years from beginning of BY	Yes	0.05% per month	25% 1 st instance; 50% 2 nd instance; 100% 3 rd instance and subsequent	X ⁴	6 – 36 months or 2 – 8 years	6 – 36 months or 2 – 8 years
IA	100%	10 years from date of last activity	Yes	No	No	50% of tax owed	10 years	N/A
KS	100%	No	Yes	1.5% per month	X ¹	\$20 – \$200	60 days	60 days
KY	100%	10 years from end of applicable BY	Yes	1.5% per month	\$10 – \$50	\$50 1 st offense, \$100 2 nd offense	1 year	1 – 5 years
LA	100%	No	Yes	No	Penalty is greater of \$20 or 25% of OP balance	\$50 – \$1,000	10 years	30 – 90 days
ME	100%	No	Yes	1% per month	50% 1 st incident, 75% 2 nd incident, 100% other incidents	X ¹	X ¹	X ¹
MD	100%	No	Yes ²	1.5% per month	Up to \$1,000	Up to \$1,000	90 days	90 days
MA	100%	No	Yes	1% per month until total interest = 50% of OP	Fine of \$1,000 - \$10,000	\$2,500 - \$10,000	6 months to 5 years	1 year
MI	100%	6 years from OP	Yes	No	Up to 4 x OP amount	Up to 4 x amount involved	5 years	10 years
MN	N/A ⁵	15	Yes ²	1½% per month	40% of OP	X ¹	20 years	20 years
MS	100%	5 years from last week overpaid	No	1% per month	\$100 – \$500	\$100 – \$1,000	30 days for each fraudulent week	6 months

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TABLE 6-3: TREATMENT OF FRAUD

State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed:	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
MO	100%	No; may write-off as uncollectible after 5 years of no activity	Yes	No	25% – 100% of fraudulent amount	25% – 100% of fraudulent amount	6 months for each violation	6 months for each violation
MT	100%	5 years. 10 years if file lien	Yes	No	Penalty: 100% principal for each offense within 5 years of most recent OP	\$50 – \$500	Depends on recommendation of district attorney or employer	30 days for each false statement
NE	100%	3 years from end of applicable benefit year	Yes	No	Up to \$500	Up to \$500.	90 days for each count	90 days
NV	100%	5 years from date OP established	No	Civil judgments only (6% per year)	25% or 50% ⁶	\$2,000	10 years	10 years
NH	1% - 10%	10 years from date OP decision is final	No	1% per month	Up to \$4,000.	Up to \$100,000.	15 years	15 years
NJ	100%	No	Yes ²	5% for CY 2009	Greater of \$20 per week or 25% of total OP	\$100 to \$1,000 per offense	Decided by court	90 days
NM	100%	No	Yes	No	Up to \$100	Up to \$100	30 days	30 days
NY	100%	No	Yes ²	9% per year (civil action only)	\$500	\$500	1 year	1 year
NC	100%	10 years from date established	Yes	No	Up to \$200	Up to \$200	2 years	2 years
ND	100%	No	Yes ²	18% per year	\$10,000 fine	\$1,000 fine	10 years	30 days
OH	100%	6 years from date OP is final	Yes	14% per year	Up to \$1,000	Up to \$1,000	6 months	6 months
OK	100%	No	Yes	1% per month	Up to \$500 each week after conviction	\$50 – \$500	6 months	90 days
OR	100%	No	Yes ²	1% per month	15% of OP	\$100 – \$500	X ¹	90 days
PA	100%	7 years from date applied for benefits	No	Computed annually based on IRS rate	\$100 – \$1,000	\$100 – \$1,500 per offense	30 days per week illegally claimed	30 days per offense
PR	100%	5 years from date established	No	No	X ¹	\$1,000	X ¹	1 year
RI	100%	No	Yes	1.5% per month	Greater of \$1,000 or double value of fraud	Greater of \$1,000 or double value of fraud	1 year	1 year
SC	100%	No	Yes	No	\$20 – \$100	\$20 – \$100	30 days for each offense or week claimed	30 days
SD	100%	No	No	12% per year	\$1,000 fine	\$1,000 fine	1 or 2 years	1 or 2 years
TN	100%	No	No	No	X ¹	X ¹	1 year (minimum)	1 year (minimum)

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TABLE 6-3: TREATMENT OF FRAUD

State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed:	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
TX	100%	No	No	1% per month	\$4,000	\$4,000	Depends on whether prosecuted as misdemeanor or felony	X ¹
UT	N/A	N/A	Yes ²	No, unless it goes to judgment	The fines or penalties on claimants is 100% of OP (civil) and up to \$10,000 (criminal)	Up to \$20,000	15 years	15 years
VT	100%	5 years from determination date	Yes ²	No	Up to \$50	Up to \$50	30 days	30 days
VA	N/A ⁵	N/A ⁵	Yes ²	No	Up to \$1,000	Up to \$1,000	1 year	1 year
VI	Depends on amount and ability of claimant	2 years from date OP is final	No	No	\$50 – \$200	\$50 – \$200	60 days	60 days
WA	100%	No	No	1% per month	\$20 – \$250	\$20 – \$250	90 days	90 days
WV	100%	10 years from last week overpaid	No	No	Varies (up to court)	\$20 – \$200	30 days	30 days
WI	100%	No	Yes ²	No	1 x WBA 1 st time, 3 x WBA 2 nd time, 5 x WBA 3 rd time and subsequent	\$500 – \$1,500	90 days	90 days
WY	100%	No	No	No	5% when OP established and every 6 months thereafter until paid	\$750	5 years	5 years

N/A: Not applicable

GENERAL NOTES: All states pursue civil action to recover fraud overpayments except AK, MA, NE, NC, PR, SC, and VA. All states impose monetary assessments and prison time on employers who fraudulently act to prevent or reduce a claimant's benefits. In addition, some states impose assessments/prison time for abetting a claimant's fraudulent receipt of benefits. Where these penalties differ, the higher is shown.

¹ In AK, AZ, CT, FL, GA, ID, KS, ME, MN, OR, PR, TN, and TX penalty assessed under misdemeanor or felony statutes.

² In AZ, DE, DC, HI, ID, IL, MD, MN, NJ, NY, ND, OR, UT, VT, VA, and WI provision found in non-UI law.

³ Claimant receives 1.5 x benefits due for weeks delayed. Thus, increasing employer's experience rate.

⁴ 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.

⁵ In MN and VA benefit offset not possible since individuals committing fraud are ineligible for benefits until they've fully repaid the amount owed.

⁶ If the OP is > \$1,000 but ≤ \$2,500 the penalty is 25%, if the OP is > \$2,500 the penalty is 50%.

DISQUALIFICATION FOR MISREPRESENTATION—In addition to assessments and prison time, claimants may be disqualified from benefits. The provisions for disqualification for fraudulent misrepresentation follow no general pattern. In nine states¹ there is a more severe disqualification when the

¹ ID, KY, LA, ME, MD, MI, OH, UT, and VT.

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fraudulent act results in payment of benefits. In California, New Hampshire, Oregon, Pennsylvania, and Virginia, it is more severe when the worker is convicted.

In California, any worker convicted of misrepresentation under the penalty provisions is disqualified for 1 year. In Rhode Island, there is no disqualification unless the worker has been convicted of fraud by a court of competent jurisdiction. On the other hand, in Hawaii, Puerto Rico, Vermont, and the Virgin Islands, a worker is not subject to the administrative disqualification if penal procedures have been undertaken. In Massachusetts, administrative disqualification precludes initiation of penal procedures.

Seventeen states include a statutory limitation on the period within which a disqualification for fraudulent misrepresentation may be imposed (See footnote 4 in Table 6-4). The length of the period is usually 2 years and, in six states, the period runs from the date of the offense to the filing of a claim for benefits. In these states, the disqualification can be imposed only if the individual files a claim for benefits within 2 years of the date of the fraudulent act. In Connecticut and Michigan, the disqualification may be imposed if a claim is filed within 6 years of the benefit year in which the offense occurred. In five states, the disqualification may be imposed only if the determination of fraud is made within 2 or 4 years of the date of the offense.

In many states, disqualification for misrepresentation is, as would be expected, more severe than the ordinary disqualification provisions. In 17 states, the disqualification is for at least a year; in others, it may last longer. The provisions are difficult to compare because some disqualifications start with the date of the fraudulent act, while others begin with the discovery of the act, the determination of fraud, the date on which the individual is notified to repay the sum so received, or the date of conviction by a court. Some begin with the filing of a first claim, while others are for weeks that would otherwise be compensable. The disqualification provisions are, moreover, complicated by tie-in with recoupment provisions and by retroactive imposition.

As Table 6-4 shows, the cancellation of wage credits in many states means the denial of benefits for the current benefit year or longer. A disqualification for a year means that wage credits will have expired, in whole or in part, depending on the end of the benefit year and the amount of wage credits accumulated for another benefit year before the fraudulent act. Thus, future benefits are reduced as if there had been a provision for cancellation. In other states with discretionary provisions or shorter disqualification periods, the same result will occur for some workers. Altogether, misrepresentation involves cancellation of wage credits or reduction of benefit rights in 34 states and may involve reduction of benefit rights for individual workers in 15 more states. The disqualification for fraudulent misrepresentation usually expires after a second benefit year, but, in California, it may be imposed within 3 years after the determination is mailed or served; in Ohio, within 4 years after a finding of fraud; and in Arkansas and Washington, within 2 years of such finding. In 10 states², the agency may deny benefits until the benefits obtained through fraud are repaid. In Virginia, the denial is limited to 5 years. In Colorado, benefits are denied if a worker's court trial for commission of a fraudulent act is prevented by the inability of the court to establish its jurisdiction over the individual. Such ineligibility begins with the discovery of the fraudulent act and continues until such time as the individual makes himself available to the court for trial. In Maryland, the time limit for repayment is 5 years following the date of the offense, or 1 year after the year disqualification period, whichever occurs later. After this period, a worker may qualify for benefits against which any part of the repayment due may be offset. In Louisiana, repayment is limited to the 5-year period following a determination of fraud—a period which may be lengthened under specified circumstances.

TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
AL		4 x WBA to maximum benefit amount payable in BY. ¹
AK	W + 6 – 52.	X ²

² ID, IL, KY, LA, MI, NH, OR, UT, VA, and VT.

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TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
AZ	1 - 52 weeks. ^{3,4}	X ²
AR	W + 13; additional 3 weeks for each week of fraud. ^{3,4}	50% of remaining entitlement.
CA	If convicted, 52 weeks. ^{3,4,5}	X ²
CO	X ⁶	X ⁶
CT	1 – 39 weeks for which otherwise eligible. ^{3,4}	Mandatory equal reduction.
DE	W + 51.	X ⁷
DC	All or part of remainder of BY and for 1 year commencing with the end of such BY. ²	X ⁷
FL	1 - 52 weeks. ³	X ²
GA	Remainder of current quarter and next 4 quarters. ^{4,8}	Mandatory equal reduction. ⁴
HI	24 months. ^{3,4}	X ⁷
ID	W + 52; amounts fraudulently received must be repaid plus penalty and interest. ^{3,4}	X ⁷
IL	W + 6 weeks; If additional offenses, up to 26 weeks. ^{3,9}	
IN	Up to current BY.	All wage credits prior to act canceled.
IA	Up to current BY. ³	Mandatory equal reduction.
KS	1 year after act committed or 1 st day following last week for which benefits were paid, whichever is later.	X ⁷
KY	Unreported earnings: W + additional weeks based on amount of unreported earnings (up to 52 W). Nondisclosure of info other than wages: W + 26. ³	X ²
LA	W + 52; if fraudulent benefits received. ³	X ⁷
ME	6 months – 1 year. ³	
MD	1 year and until benefits, with interest, repaid. ^{3,4}	X ⁷
MA	A compensable week for each week overpaid.	25% of WBA.
MI	Current BY and until such amounts are repaid or withheld. ^{3,4}	All base period wages canceled.
MN	13 – 104 weeks.	X ²
MS	W + up to 52 weeks. ³	X
MO	Up to current benefit year +. ¹⁰	All or part of wage credits prior to act canceled.
MT	1 – 52 weeks and until benefits repaid. ³	
NE	Up to current benefit year +. ¹⁰	All or part of wage credits prior to act canceled.
NV	W + 1 – 52. ¹¹	X ⁷
NH	4 – 52 weeks; if convicted 1 year after conviction; and until benefits repaid or withheld. ^{1,3}	Mandatory equal reduction.
NJ	1 year. ³	X ²
NM	Not more than 52 weeks. ³	X ⁷
NY	4 – 80 days for which otherwise eligible. ^{3,4}	Mandatory equal reduction.

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TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
NC	52 weeks. ³	X ⁷
ND	W + 51.	X ⁷
OH	Amount of fraudulent benefits must be repaid and must be held ineligible for two otherwise valid weekly claims for each weekly claim canceled.	X ¹²
OK	W + 51. ^{3,4}	BP or BY may not be established during period.
OR	52 weeks; if convicted, until benefits repaid or withheld. ^{3,4}	If convicted, all wage credits prior to conviction canceled. ¹⁰
PA	2 weeks plus 1 week for each week of fraud or, if convicted of illegal receipt of benefits, 1 year after conviction. ^{1,4,13}	X ⁷
PR	W + 51 provided that criminal procedures have not been filed against claimant. ^{3,4}	
RI	If convicted, 1 year after conviction.	X ⁷
SC	W + 10 – 52. ³	X ²
SD	1 – 52 weeks. ³	X ²
TN	W + 4 – 52. ³	X ²
TX	Current BY.	Benefits or remainder of BY canceled.
UT	W + 13 – 49; and until benefits received fraudulently are repaid. ¹⁴	X ⁷
VT	If not prosecuted, until amount of fraudulent benefits are repaid or withheld + 1 – 26 weeks. ^{3,4}	X ²
VA	W + 52 and until benefits repaid; if convicted, 1 year after conviction. ^{3,4}	X ²
VI	W + 51. ^{3,4}	X ²
WA	Week of fraudulent act + 26 weeks following filing of 1 st claim after determination of fraud. ⁴	X ⁷
WV	W + 52. ³	
WI	Each week of fraud.	1 – 4 x WBA. ^{1,15}
WY	W + 51. ³	

GENERAL NOTE: W means week in which act occurs plus the indicated number of consecutive weeks following.

¹ In AL, NH, PA, and WI provision applicable at discretion of agency.

² In AK, AZ, CA, DC, FL, KY, MN, NJ, SC, SD, TN, VT, VA, and VI before disqualification period ends, wage credits may have expired in whole or in part depending on disqualification imposed and/or end of BY.

³ In HI, ID, IL, IA, LA, MD, MT, NH, NM, OK, PR, SC, VA, and WV period of disqualification is measured from date of determination of fraud in; In ME, and NC mailing date of determination; in VT date of redetermination of fraud; in AR and AZ date of claim or registration for work; in CA week determination is mailed or served, or any subsequent week for which individual is first otherwise eligible for benefits, or if convicted, week in which criminal complaint is filed; in CT, FL, NY, SD, and TN waiting or compensable week after its discovery; In MS 1st OP results in 6 week disqualification for each fraudulent week, 2nd or subsequent OP results in 12 week disqualification for each fraudulent week; in OR as determined by agency; in KY, MI, and NJ date of discovery of fraud; in VI determination mailed or delivered; in WY, week of fraud or week following the date notice is mailed.

⁴ In AZ, HI, NY, OK, PR, and VI provision applicable only if claim filed 2 years after offense, and period of disqualification runs from date of offense to filing of claim; in PA within 4 year period following the expiration of the claim in which the fraud occurred; in WA within 2 years following determination of fraud; in CA if claim filed within 3 years following date determination was mailed or served; in MD, and VA if determination of fraud is made within 3 years after offense; in VT 3 years after date of decision; in OR 5 years after the date of the decision; in AR 5 years from date of delivery or mailing of determination of disqualification; in GA if determination of fraud is made within 4 years of offense; in CT, if claim is filed within 6 years of BY during which offense occurred; in ID within 8 years of final determination establishing liability to repay; in MI reduction only occurs as to a benefit year filed within 2 years after the cancellation of benefit entitlement due to fraud on an existing benefit year; However, in OR, overpayments will not be canceled within 3 years if the debt is being recovered by payments or deductions which were received within the last 3 months nor if repayment of the overpayment is required because of a fraud conviction.

⁵ Disqualification may be served concurrently with a disqualification imposed for any of the 3 major causes if individual registers for work

OVERPAYMENTS

TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
	for such week as required under latter disqualifications; also disqualification is 2 – 15 weeks if not paid benefits or 5 – 15 weeks if benefits received. The Director may extend the period of ineligibility for an additional period not to exceed 8 additional weeks for successive disqualification.	
	⁶ See Sec. 455.03 of state law for explanation of period of disqualification.	
	⁷ In <u>DE</u> , <u>DC</u> , <u>HI</u> , <u>ID</u> , <u>KS</u> , <u>LA</u> , <u>MD</u> , <u>NV</u> , <u>NM</u> , <u>NC</u> , <u>ND</u> , <u>PA</u> , <u>RI</u> , <u>UT</u> , and <u>WA</u> before disqualification period ends, wage credits will have expired in whole or in part, depending on end of BY.	
	⁸ If a false representation or failure to disclose a material fact is made more than once in a BY, or if benefits received exceed \$4,000, the individual shall upon conviction be guilty of a felony and upon conviction shall be punished by imprisonment of 1 to 5 years. These penalties also apply to fictitious employers who receive benefits to which not entitled.	
	⁹ Plus 2 additional weeks of disqualification for each subsequent offense.	
	¹⁰ In <u>MO</u> , <u>NE</u> , and <u>OR</u> cancellation of all wage credits means that period of disqualification will extend into 2 nd BY, depending on amount of wage credits for such year accumulated before fraudulent claim.	
	¹¹ May be waived for good cause, or if the claimant adheres to an authorized repayment schedule designed to repay benefits, penalties, and interest within 18 months.	
	¹² Determination of fraud may be issued only if within 4 years of the BY beginning date. Two penalty weeks are served for each week in which fraud occurred.	
	¹³ Duration of disqualification lasts until benefits withheld or repaid if finding of fault on the part of the claimant has been made.	
	¹⁴ 13 weeks for first week of fraud + 6 weeks for each additional week. No benefits shall be paid until OP repaid and as a civil penalty an amount equal to the benefits fraudulently received.	
	¹⁵ Compensable week within 6 year period following date of determination of fraud for concealing earnings or refusal of job offer.	

WRITE OFFS

After exhausting its options to recover overpayments, most states will permit the UI agency to write off (that is, cancel as uncollectible) certain overpayments. The criteria for writing off overpayments vary. Usually, it depends on how long the overpayment has been outstanding. However, most states have established additional criteria. The following table provides information on states' write-off provisions.

TABLE 6-5: WRITE OFF OF OVERPAYMENTS

State	Nonfraud		Fraud	
	Age Requirement	Other Criteria	Age Requirement	Other Criteria
AL ¹	6 years from final decision.	Bankruptcy or death.	6 years from final decision.	Death.
AK ²	2 years from last payment.	Death.	2 years from last payment.	Death.
AZ ¹	5 years from final decision.	N/A	None.	Bankruptcy or death.
AR	None.	Death.	None.	Death.
CA ^{1,2}	6 years and 1 month from OP mail date. If judgment, 10 years and 1 month from judgment.	Immediately if OP ≤ \$9.99 and no payment activity for 6 months.	6 years and 1 month from OP mail date. If judgment, 10 years and 1 month from judgment.	Immediately if OP ≤ \$9.99 and no payment activity for 6 months.
CO ^{1,2}	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 ²	3 years.	OP debt is wholly or partly uncollectible.	3 years.	OP debt is wholly or partly uncollectible.
DC ¹	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 ¹	2 years from establishment.	Bankruptcy or death.	5 years from establishment.	Bankruptcy or death.
GA ¹	3 years older than 1 st day of current quarter.	N/A	4 years older than 1 st day of current quarter and last transaction is 1 quarter old.	N/A
ID ²	5 years from final decision.	Account activity.	8 years from final decision.	Account activity.
IL ^{2,3}	None.	If uncollectible.	None.	Legally uncollectible.
IN ²	3 years from BYB of claim. Civil judgment extends by 10 years (can extend again).	N/A	6 years from BYB of claim. Civil judgment extends by 10 years (can extend again).	N/A
IA ^{2,3}	10 years from last activity.	N/A	10 years from last activity.	N/A

OVERPAYMENTS

TABLE 6-5: WRITE OFF OF OVERPAYMENTS

TABLE 6-5: WRITE OFF OF OVERPAYMENTS				
	Nonfraud		Fraud	
State	Age Requirement	Other Criteria	Age Requirement	Other Criteria
KS ¹	5 years from last transaction.	N/A	10 years from last transaction.	N/A
KY ²	5 years from last day of benefit year.	N/A	10 years from last day of BY.	Not if claimant has been prosecuted for offense.
LA ²	3 years from BYE of overpaid claim and from last acknowledgement of debt or penalty assessment.	Bankruptcy.	5 years from determination date and from last acknowledgement of debt or penalty assessment.	Bankruptcy.
ME ¹	6 years from establishment.	Below \$25.	6 years from establishment.	Below \$25.
MD ¹	5 years from establishment.	N/A	None.	N/A
MA ^{1,2}	5 years from last claim for benefits.	No further contact with claimant.	5 years from last claim for benefits.	No further contact with claimant; after review and approval of Commissioner.
MI ¹	3 years from determination date unless civil action filed, individual made false statement, or determination requires restitution. 10 years if judgment.	N/A	6 years from determination date unless civil action filed, individual made false statement, or determination requires restitution. 10 years if judgment.	N/A
MN	6 years from date determined.	N/A	15 years from date determined.	N/A
MS ²	5 years from last day of week overpaid.	N/A	5 years from last day of week overpaid.	N/A
MO ²	5 years from establishment with no activity.	Must be uncollectible.	5 years from establishment with no activity.	Must be uncollectible.
MT ²	5 years from establishment. 10 years with lien.	Bankruptcy, death.	5 years from establishment. 10 years with lien.	N/A
NE ^{1,3}	None.	Bankruptcy, death, incarcerated 5+ years, or can't be located and OP 10+ years.	None.	Bankruptcy, death, incarcerated 5+ years or can't be located and OP 10+ years.
NV	3 years from establishment.	N/A	3 years from establishment.	N/A
NH ^{2,3}	None.	If in best interest of state.	None.	If in best interest of state.
NJ ²	6 months to 1 year from date of delinquency.	Depends on date of last payment, proof and date of claimant contact.	6 months to 1 year from date of delinquency.	Depends on date of last payment, proof and date of claimant contact.
NY ¹	6 years from latest action.	N/A	6 years from latest action on OP. If judgment, 20 years from date judgment filed.	N/A
NC ²	3 years from last day of year in which OP occurred.	Death.	10 years from last day of year in which OP occurred.	Death.
ND ¹	None.	Bankruptcy, death, inability to locate client, and current state of employment.	None.	N/A
OH ²	3 years from final decision.	N/A	6 years from final decision.	N/A
OK ²	1 year from end of BY current when OP established.	Administrative error only.	None.	N/A
OR ²	3 years from final decision. If nonfault OP, after 1 year.	< 1/2 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 ²	If nonfault, 4 years from application for benefits date. 7 years if fault.	Not written off if lien.	7 years from application for benefits date.	Not written off if lien.
PR ²	5 years from establishment.	Bankruptcy or death.	5 years from establishment.	Bankruptcy or death.

OVERPAYMENTS

TABLE 6-5: WRITE OFF OF OVERPAYMENTS

TABLE 6-5: WRITE OFF OF OVERPAYMENTS				
	Nonfraud		Fraud	
State	Age Requirement	Other Criteria	Age Requirement	Other Criteria
RI ¹	5 years from detection and no refund activity.	Bankruptcy, death or any OP ≤ \$100. System allows reactivation of OP if individual files a claim and/or starts to repay.	5 years from detection and no refund activity.	Bankruptcy, death or any OP ≤ \$100. System allows reactivation of OP if individual files a claim and/or starts to repay.
SC ²	5 years from establishment.	N/A	6 years from establishment.	N/A
SD ²	None.	Bankruptcy or death and 10 years or more.	None.	Bankruptcy or death and 10 years or more.
TN ²	3 years from establishment.	Yes.	6 years from establishment.	N/A
UT ³	Fault OPs subject to accounting write-off after 3 years if deemed uncollectible. Mandatory write-off as to offset at 8 years.	Nonfault OPs.	Accounting write-off after 3 years if deemed uncollectible. No write-off as to benefit eligibility.	N/A
VT ²	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 ²	7 years from determination date if no repayment activity in last 12 months.	Bankruptcy or death.	7 years from determination date if no repayment activity in last 12 months.	Bankruptcy or death.
VI ¹	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.	None.	N/A
WA	None.	No cost-effective means of collecting.	None.	No cost-effective means of collecting.
WV ²	5 years from last day of week overpaid.	Bankruptcy or death.	10 years from last day of week overpaid.	Bankruptcy or death.
WI ¹	7 years from decision.	Bankruptcy, death with no assets. No collection activity in 3 years. No assets or wages found.	7 years from decision.	Bankruptcy, death with no assets. No collection activity in 3 years. No assets or wages found.
WY ²	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.	None.	Cannot locate, totally unable to work, and covered wages < ½ of average state weekly wage.

KEY: N/A = Not applicable

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

¹ Write-off provisions found in policy.

² Write-off provisions found in law.

³ Write-off provisions found in regulation.