

**RULES  
OF  
GEORGIA DEPARTMENT OF LABOR**

**CHAPTER 300-2-3**

**EMPLOYMENT SECURITY LAW**

**~~300-2-4-.08 Waiver of Overpayments. Amended. Repeal.~~**

~~(1) An individual shall be required to repay an overpayment of unemployment insurance benefits unless a timely application for waiver is filed and such repayment, in the discretion of the Commissioner or the Commissioner's designee, is determined to be inequitable under this rule and fault is not found to be attributable to that individual. Such determination shall not be appealable.~~

~~(2) A waiver of an unemployment insurance overpayment may not be granted if the request for such waiver is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment. Provided, however, that such time limitation may be extended, in the discretion of the Commissioner or the Commissioner's designee, upon a showing of extenuating circumstances which prevented the filing of a timely waiver request by the claimant and such circumstances were beyond the claimant's control.~~

~~(3) A waiver of an unemployment insurance overpayment may not be granted to any individual who has been expressly determined to have brought about such overpayment by the presentation of false or misleading statements or representations, whether or not such action has been determined fraudulent, when such individual could have or should have known such information presentation was false or misleading.~~

~~(4) A waiver of an unemployment insurance overpayment may be granted to an individual only if:~~

~~(a) a timely application for waiver is filed;~~

~~(b) fault is not attributable to the individual, as outlined in paragraph (3) of this rule;~~

~~(c) the individual provides, at the time of the individual's request for a waiver, satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual; and~~

~~(d) the individual provides, at the time of the individual's request for a waiver, satisfactory evidence that he or she has no reasonable prospect of future employment nor ability to repay the overpayment in the future, due to age, disability, or other good cause.~~

~~(5) Financial hardship exists if recovery of the overpayment would result directly in the individual's loss of or inability to obtain the minimal necessities of food,~~

~~medicine, and shelter for a substantial period of time and such circumstances may be expected to endure for the foreseeable future.~~

~~(6) A waiver of an unemployment insurance overpayment may be issued by the department in whole or in part upon the finding of a court of law having proper subject matter jurisdiction which rules that error existed in the information utilized to establish such overpayment, whether or not such overpayment was determined to be fraudulent in nature. Additionally, if a court finds repayment of an overpayment should be waived by virtue of discharge in bankruptcy granted under provision of Chapter 7 or Chapter 13 of the Bankruptcy Code, waiver will be granted.~~

**Replace:**

**300-2-4-.08 Overpayments. Amended.**

(1) Waiver of Overpayments.

(a) An individual shall be required to repay an overpayment of unemployment insurance benefits unless a timely application for waiver is filed and such repayment, in the discretion of the Commissioner or the Commissioner's designee, is determined to be inequitable under this rule and fault is not found to be attributable to that individual. Such determination shall not be appealable.

(b) A waiver of an unemployment insurance overpayment may not be granted if the request for such waiver is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment. Provided, however, that such time limitation may be extended, in the discretion of the Commissioner or the Commissioner's designee, upon a showing of extenuating circumstances which prevented the filing of a timely waiver request by the claimant and such circumstances were beyond the claimant's control.

(c) A waiver of an unemployment insurance overpayment may not be granted to any individual who has been expressly determined to have brought about such overpayment by the presentation of false or misleading statements or representations, whether or not such action has been determined fraudulent, when such individual could have or should have known such information presentation was false or misleading.

(d) A waiver of an unemployment insurance overpayment may be granted to an individual only if:

1. a timely application for waiver is filed;
2. fault is not attributable to the individual, as outlined in subsection (1)(c) of this rule;
3. the individual provides, at the time of the individual's request for a waiver, satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual; and

4. the individual provides, at the time of the individual's request for a waiver, satisfactory evidence that he or she has no reasonable prospect of future employment nor ability to repay the overpayment in the future, due to age, disability, or other good cause.

(e) Financial hardship exists if recovery of the overpayment would result directly in the individual's loss of or inability to obtain the minimal necessities of food, medicine, and shelter for a substantial period of time and such circumstances may be expected to endure for the foreseeable future.

(f) A waiver of an unemployment insurance overpayment may be issued by the department in whole or in part upon the finding of a court of law having proper subject matter jurisdiction which rules that error existed in the information utilized to establish such overpayment, whether or not such overpayment was determined to be fraudulent in nature. Additionally, if a court finds repayment of an overpayment should be waived by virtue of discharge in bankruptcy granted under provision of Chapter 7 or Chapter 13 of the Bankruptcy Code, waiver will be granted.

(2) Overpayment Penalties.

(a) Effective October 22, 2013, pursuant to requirements of Section 251 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), amending Section 303 of the Social Security Act (42 U.S.C. 503) at subparagraph (a)(11)(A), and the authority of the Commissioner of Labor under Code Section 34-8-93, the monetary penalty imposed by Code Section 34-8-255 on individuals who commit fraud in connection with state or federal unemployment insurance benefits paid from this state's Unemployment Trust Fund is increased from 10 percent to a mandatory penalty of 15 percent of the overpayment, applicable to all federal and state unemployment fraud overpayments, pending conforming legislation by the General Assembly. Notices advising claimants of fraud overpayments shall include the penalty amount, an explanation of the reason for the overpayment, the reason the penalty has been applied, and the individual's appeal rights. Such penalty amounts may not be waived by the department or the Commissioner except pursuant to an order of a court with competent jurisdiction so ruling.

(b) Effective October 22, 2013, pursuant to additional requirements of Section 251 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), amending Section 303 of the Social Security Act (42 U.S.C. 503) at subparagraph (a)(11)(B), and the authority of the Commissioner of Labor under Code Section 34-8-93, penalties imposed and collected under Code Section 34-8-255 and subparagraph (2)(a) of this Rule shall be deposited in the clearing account of the Unemployment Compensation Fund and, after clearance thereof, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the Unemployment Trust Fund established

and maintained pursuant to Section 904 of the Social Security Act, as amended, for the payment of benefits, pending conforming legislation by the General Assembly.

Authority O.C.G.A. §§ 34-8-70, 34-8-92, 34-8-93, 34-8-190, 34-8-254, 34-8-255, 42 U.S.C. 503, as amended.