

Chapter 192-650 WAC
COLLECTIONS AND RECOVERY OF OVERPAYMENTS

Last Update: 12/12/19

WAC

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WAC 192-650-005 How will the department collect overpayments owed by an employee? When an employee is assessed an overpayment, the department will calculate a minimum monthly payment as follows:

(1) For overpayments due to fraud as defined in WAC 192-500-120, conditional payments, or fault attributable to the employee, the minimum monthly payment for an employee will be the greater of:

(a) The employee's weekly benefit amount; or

(b) Three percent of the outstanding balance when the billing statement is sent, rounded down to the next whole dollar amount.

(2) For all other overpayments, the minimum monthly payment will be the greater of:

(a) One-third of the weekly benefit amount;

(b) Three percent of the outstanding balance when the billing statement is sent, rounded down to the next whole dollar amount; or

(c) Twenty-five dollars.

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-650-005, filed 7/31/19, effective 8/31/19.]

WAC 192-650-010 Can overpayments be offset against future benefit payments? (1) An overpayment may be offset on a valid claim year at the department's discretion when:

(a) An employee requests to repay an overpayment;

(b) An employee does not repay an overpayment in full; or

(c) An employee misses a portion of two or more arranged payments.

(2) If the new available claim amount for the current claim year is greater than the balance of the overpayment, the employee can request an amount of benefits to be offset from each payment, subject to approval by the department. However, if the new available claim amount for the current claim year is equal to or less than the balance of an overpayment on that claim year, the offset will be done at the rate of one hundred percent.

(3) An employee may request to repay overpayments owing on prior claim years by offset.

(4) For subsection (1)(b) and (c) of this section, the overpayment will be offset as follows:

(a) If the overpayment was caused by a denial for fraud the amount deducted will be one hundred percent of the benefits payable for each week the employee claims benefits. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of the benefits payable for each week claimed by the employee, or such other percentage approved under subsection (2) of this section, up to one hundred percent of benefits payable. The percent de-

ducted is based on the total weekly benefit amount, before deductions for such items as pensions, child support, income taxes.

(c) Interest, penalties, surcharges, court costs, and charges for dishonored payments will not be deducted from benefit payments; they must be repaid.

(5) During any valid claim year, the total amount of benefits paid to the employee plus offset credits granted will not exceed the maximum benefits payable on the claim.

(6) If offset of an overpayment is granted against weeks that are later found to have been paid in error or as a result of fraud, the offset for those weeks will be canceled and the amount will be restored to the employee's overpayment balance.

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-650-010, filed 7/31/19, effective 8/31/19.]

WAC 192-650-015 Are negotiated settlements of overpayments permitted?

(1) The department can accept a negotiated settlement to repay a debt of overpayment under RCW 50A.45.070. Except as provided in subsection (3) of this section, a negotiated settlement of the overpayment for less than the full amount owed will be considered when requiring an employee to repay the full amount would be against equity and good conscience as defined in WAC 192-640-005.

(2) In considering settlement offers, the department will first consider whether it is financially advantageous to the department to collect the debt. The department may also consider:

(a) The age and amount of the overpayment;

(b) The number of prior contacts with the employee;

(c) If the employee previously made good faith efforts to pay the debt;

(d) The ability to enforce collection; or

(e) Other information relevant to the employee's ability to repay the debt.

(3) Except in unusual circumstances, a settlement offer will not be accepted when the employee's overpayment is the result of fraud. Unusual circumstances that may warrant a negotiated settlement of the overpayment and associated penalties include, but are not limited to, long-term or terminal illness, severe permanent disability, or other circumstances that seriously impair the employee's long-term ability to generate income.

(4) The department's decision to accept or reject a settlement offer is not subject to appeal. If the department rejects the settlement offer, the employee is permitted to make another offer if the employee's circumstances change.

[Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-650-015, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-650-015, filed 7/31/19, effective 8/31/19.]

WAC 192-650-020 How does an employee make a negotiated settlement offer to repay overpayments?

(1) An employee may contact the department online or in another manner approved by the department to make an offer to settle a debt for less than the full amount the employee owes. The employee must:

- (a) Specify the amount the employee is offering to repay; and
 - (b) Be prepared to provide financial and other information to support the offer.
- (2) The department may request a credit report to verify the information the employee provides.
- (3) The department will notify the employee of its decision to accept or decline the offer.

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-650-020, filed 7/31/19, effective 8/31/19.]

WAC 192-650-025 How are payments and offsets applied when an employee has more than one overpayment? (1) If the department has assessed more than one overpayment against an employee, the department will apply payments and offsets beginning with the oldest debt. The department will apply payments and offsets to the outstanding balance in the following order:

- (a) Court costs including, but not limited to, filing fees and surcharges paid to the court for their official services, and surcharges and fees collected by the court for distribution to other programs or funds. It does not, however, apply to surcharges paid to the court under RCW 40.14.027 which are applied under (f) of this subsection;
 - (b) Interest;
 - (c) Penalties based on fraud;
 - (d) Charges for payments dishonored by nonacceptance or nonpayment;
 - (e) Overpaid benefits; and
 - (f) Surcharges assessed under RCW 40.14.027.
- (2) The department will charge twenty-five dollars for each dishonored payment the employee submits. This is considered a commercial charge under the Uniform Commercial Code (RCW 62A.3-515).

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-650-025, filed 7/31/19, effective 8/31/19.]