

### Sample Language for State Websites

This Attachment includes sample language for state websites regarding the waiver of recovery provisions under the CARES Act UC programs. ETA recognizes that state laws and practices may vary. States are encouraged to use this language as a starting point for their communication. States are encouraged to reference this link in their determinations when an overpayment is established and in their written notices when a waiver of recovery is approved.

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#### **Important Information for those who Receive[d] “Overpayment” Notices PLEASE READ AS YOU MAY NOT HAVE TO PAY THEM BACK**

#### **Temporary Unemployment Benefits under the CARES Act Programs Information on Overpayments**

You may have received a notice from [STATE AGENCY] that you were paid unemployment benefits under the CARES Act programs that you were not entitled to, this is called an overpayment. You may also have received a notice from [STATE AGENCY] that you do not have to pay this money back. This page explains what may be happening depending on your specific circumstances.

#### **Why do I have an overpayment?**

The CARES Act created new temporary pandemic-related unemployment compensation programs. We have identified some people that were paid money that they were not entitled to. We have reviewed our records and, as needed, [are reaching out/have reached out] to these people. If it [is/was] determined that they were not eligible for this money, we [will establish/have established] an overpayment. In normal circumstances, someone with an overpayment is responsible for paying the money back, but we recognize that the pandemic was not a normal circumstance.

#### **In what instances am I not responsible for repaying an overpayment?**

If the overpayment was not your fault and we determine that it would be unfair to ask you to pay it back (in other words, it would be against equity and good conscience to recover the money from you), we are **not** going to require you to pay back the money. This is called a waiver of recovery.

#### **What we are doing [*For states that are processing blanket waivers*]**

The U.S. Department of Labor has identified several scenarios where we can automatically waive recovery of an overpayment. You can find these at [insert state-specific link that references what scenarios the state may be applying from Section

4.c.ii.A. of UIPL No. 20-21, Change 1]. We are currently reviewing overpayments to determine if they are eligible for recovery to be waived. [States may, if applicable to how they are applying the blanket waiver scenarios, consider adding a sentence that says: *You do not need to submit an individual request to be considered under one of these scenarios.*] Any overpayments resulting from fraud are not eligible for waiver.

If you are eligible for a waiver, we will send you a written notice. Additionally, any money that was collected on this overpayment will be refunded to you. Additional information regarding any refund you may be owed will be included in this written notice. Please note that this process may take [insert state estimated timeframe].

**What you can do [For states that allow for individual waiver requests, rather than evaluating every overpayment created (see Section 5 of UIPL No. 23-80)]**

[For states processing blanket waivers, consider this intro sentence: *If you do not get a waiver but think you should,*] you have two options. If you disagree with the overpayment and believe that you were entitled to receive unemployment benefits for the week(s) in question, you may file an appeal. If you do not wish to file an appeal but do not think you are at fault for the overpayment, you may request consideration for a waiver of recovery.

- **File an appeal.** If you do not believe you got an overpayment (meaning you believe that you were entitled to receive unemployment benefits for the weeks in question), you may file an appeal. Please review your determinations to see which one(s) found you disqualified or ineligible and follow the appeals instructions listed on the determination(s). [If applicable under state law, consider adding the sentence: *If it is past the deadline to file an appeal, you will need to show good cause for why you missed the deadline.* State may consider including some examples of what constitutes good cause.]

You can find the determinations and the process to file an appeal on your claimant portal by [insert language about the state's particular online portal].

[Consider for the online webpage – *add a screen shot of where to find the determination(s) and the appeal link on the claimant's portal.* States are permitted and encouraged to add any help buttons or other explanations consistent with this language to guide claimants.]

If you are successful in your appeal, there is no need to request a waiver because you will no longer be considered overpaid.

- **Request a waiver so you do not have to pay back the overpaid amount.** There are two requirements to qualify for a waiver of recovery:

(1) you were not at fault for the receipt of the benefits; and

(2) it would be unfair to collect money – that is, it would be “contrary to equity and good conscience.”

If you believe these two requirements apply to you, you may request a waiver by [insert state-specific instructions].

If your request for a waiver is granted, we will send you a written notice. In that case, you will not be responsible for repaying the money. Additionally, any money that was collected on this overpayment will be refunded to you.

### **I received a written notice that I do not need to repay benefits received**

If you received written notice that you do not need to repay benefits received, this means that we have reviewed the overpayment and determined that you do not have to repay this money. You do not need to return any money. You do not need to do anything for this overpayment.

Importantly, while you do not have to pay back the overpayment listed on the notice we sent you, this waiver of recovery does not apply to any other overpayment you may have on your account.

### **I received a written notice that I do not qualify for a waiver. What are my options?**

If you received a written notice that you do not qualify for a waiver but think that you should have received it, please follow the appeals instructions listed on the determination saying that you did not qualify for a waiver. [If applicable under state law, consider adding the sentence: *If it is past the deadline to file an appeal, you will need to show good cause for why you missed the deadline.* State may consider including some examples of what constitutes good cause.]

If you do not file an appeal, we encourage you to contact us and make payment arrangements as soon as possible. To make payment arrangements, please contact [insert state-specific instructions]. For more information on our collections process, please visit [insert link to state’s website explaining the collections process].