



Restitution

(Repayment of Improperly Paid Benefits)

What the law says: This issue is covered by Section 62(a) of the *Michigan Employment Security Act*. The law says that if an unemployed worker receives a benefit payment to which he or she is not entitled, the unemployed worker must repay to the Unemployment Insurance Agency (UIA) the improperly paid amount, plus interest and possibly penalties.

The restitution, or repayment, may be paid to the Agency in cash, or it can be deducted from future benefit payments, but not more than 50% of any benefit payment can be used to pay back restitution and interest. If the improper payment involved fraud, though, then up to 100% of future benefit payments may be taken in order to collect the restitution. The restitution can also be collected by intercepting the claimant's state income tax refund and, in some cases, the claimant's federal income tax refund.

However, the UIA cannot collect restitution more than three years after finality of the Determination, Redetermination, or Decision establishing the restitution. The Agency must issue a Determination requiring restitution within 3 years of the date benefits were first paid in the involved benefit year, or within 6 years, if intentional misrepresentation was at issue.

The law gives the Agency authority to forgive restitution under certain circumstances, where requiring restitution would be contrary to equity and good conscience and the improper payment was not the fault of the unemployed worker. However, if the repayment of restitution is waived, any restitution repaid before the waiver is granted will not be refunded.

What Agency Guidelines say: The Agency can forgive repayment of restitution when the incorrect payment was due to the Agency's clerical error in calculating the benefit payment; or when the error occurred because the employer failed to provide the Agency with requested information or provided incorrect information; or when the unemployed worker has a low household income and repaying the amount would cause the unemployed worker extreme financial hardship.

Examples: The unemployed worker gets confused and reports earnings to the Agency for the wrong week. As a result, the unemployed worker is paid benefits for a week when he or she actually had earnings, and reports earnings for a week when the unemployed worker had no earnings and would have been entitled to benefits. Restitution must be set up for the week of the incorrect payment, and up to 50% of future benefit checks will be used to pay off the restitution, unless the unemployed worker voluntarily pays the full amount of the restitution in one payment.

In another example, the Agency requests information from the employer about a claimant's wages, and the employer does not provide the information before benefit payments begin. The unemployed worker is paid unemployment benefits of \$200.00 per week, based on the unemployed worker's statement of wages to UIA. Later, the employer provides the correct wage information. In this case, the unemployed worker will not be required to repay the overpayments (unless the unemployed worker committed fraud), and the employer's account with the UIA will be charged for the overpayments.

If the Agency decides that a worker who quit a job should not be disqualified for benefits, and then a later Redetermination or Decision says that the worker should have been disqualified and that benefits should not have been paid, the worker will generally have to repay the benefits to UIA.

Proof at the Hearing: The Agency would have to prove that benefits were overpaid. The unemployed worker could deny the payments were overpayments, or could disagree with the Agency's refusal to forgive repayment (that is, could prove that the UIA abused its discretion when it denied forgiveness of collection of restitution).

For Further Help: The UIA Advocacy Program can provide assistance to employers and/or unemployed workers in preparing for an Administrative Law Judge hearing. Call 1-800-638-3994, Item 2.