

Overpayment Recovery: Frequently Asked Questions (FAQs)

Q1. Why is the overpayment recovery happening now?

A: Resolution of recent Oregon Supreme Court Cases (*Arken/Robinson* and *White*) enables PERS to begin recovery of overpayments made to approximately 29,000 PERS benefit recipients.

Q2: How were the overpayments created?

A: Affected benefit recipients received overpayments because 1999 regular account earnings were credited inappropriately. The courts and legislature determined that earnings for that year should have been credited at 11.33 percent, instead of the original 20 percent.

Q3: How do I know if I received an overpayment that is going to be recovered?

A: Members or their beneficiaries who received overpayments based on the original 20 percent crediting for 1999 were notified in January 2006 that an overpayment had occurred and some recoveries were initiated. Subsequent court challenges prevented further recovery efforts until now. Affected benefit recipients will now be mailed a letter explaining the recovery process, and a second letter that details the amount of their overpayment.

Q4: When will the overpayment recovery begin?

A: We anticipate beginning the recovery process in summer 2012. PERS will send a letter to each affected benefit recipient with information regarding the amount of the overpayment and the repayment options. Letters will be staggered over a number of months due to the volume. Benefit recipients will be provided 30 days to contact PERS to select which repayment option they want to use. Those options are explained below.

Q5: What are the repayment options?

A: Those who have an **ongoing monthly benefit** can repay the overpayment one of two ways:

- 1) pay the entire amount in a lump sum, or
- 2) have a set percentage (most likely between 2 to 5 percent) of their monthly benefit deducted each month from their gross benefit and applied to recover the overpayment within a reasonable recovery period (up to 10 years). When the overpayment is fully recovered, the deduction would end; if the benefit payments end before the overpayment is fully recovered, PERS will pursue other collection options.

Those with **no ongoing monthly benefit** can repay the overpayment one of two ways:

- 1) pay the entire amount in a lump sum, or
- 2) contact PERS to make acceptable payment arrangements.

Q6. What happens if I don't respond to PERS with my choice of recovery options?

A: Those benefit recipients with an ongoing monthly benefit will default to the set percentage benefit reduction.

Those without an ongoing benefit who do not respond to PERS will be forwarded to an outside collector. For those who are Oregon residents, PERS will refer collection to the Oregon Department of Revenue (DOR) in conformance with the state's debt collection policies and procedures.

Non-Oregon residents who do not respond will be referred to an outside agency in conformance with the debt collection policies and procedures.

Q7: Under the percentage reduction, will the amount deducted increase with each annual cost-of-living adjustment (COLA)?

A: Yes, the percentage reduction will be on the gross amount of the benefit, so the repayment amount will increase with each COLA.

Q8: Will interest be charged on the amount owed?

A: No interest will be charged.

Q9. Will the monthly deduction be pre- or post-tax?

A: The deduction will be pre-tax.

Q10. Will PERS help individual members with possible tax issues associated with the overpayment?

A. PERS reports the actual benefit payments made in a calendar year. So, in prior years when the overpayments were made, PERS reported the amounts actually paid. Those amounts were correctly reported at the time, so no amended 1099-R will need to be issued.

Once PERS begins the recovery process, those members whose benefits are reduced to recover the overpayment will be reported to have received that reduced amount, so again the 1099-R will correctly report the benefits actually paid in a calendar year.

Those members who repay the overpayment in a lump sum should consult their tax professional on whether they can deduct that amount, depending on their individual tax situation and the amount of the repayment.

Q11. I took a lump sum benefit payment by rolling funds out of PERS into a qualified retirement account. Can I repay by rolling those funds back to PERS?

A: PERS asked the Internal Revenue Service (IRS) for a Private Letter Ruling that would allow members to “roll” those funds back to PERS. The IRS declined to provide a ruling. Without that direction from the IRS, we cannot accept rollover funds as payment.

Q12. As someone who received a lump sum or lump-sum payments, what does PERS consider to be “acceptable payment arrangements?”

A: An acceptable repayment schedule will vary depending on individual circumstances. Generally, repayment within 10 years will be reasonable but there will be exceptions. For example, if someone owes \$100, then a 10- year repayment schedule is not warranted. PERS will work with affected members to create a repayment plan that is acceptable to both parties.

Q13. Will my annual 1099-R show the amount withheld from my benefit for each tax year?

A: No, a 1099-R shows the actual benefit amount paid within the year and the amount of taxes (if any) withheld from the benefit. It will not show the overpayment deduction.

Q14. Will PERS send me an annual statement showing the amount deducted from my benefit each year?

A: PERS does not plan to send an annual statement to affected benefit recipients because monthly benefit payment amounts can be viewed on the PERS website using [Online Member Services](#) (you will need to create an account to log in if you are a first-time user).

Q15: I remember my monthly benefit being reduced some years back. Wasn't that the repayment of the overcrediting from 1999?

A: PERS adjusted monthly benefits for the affected population between 2006 and 2007. Since that time, the affected population has been paid the correct benefit amount going forward based on the change in earnings crediting for 1999 from 20 percent to 11.33 percent and the Oregon Supreme Court's reversal of the "COLA freeze." We are now recovering the amount that was overpaid to benefit recipients from the time they retired until their monthly benefits were adjusted in the 2006-2007 timeframe.

Q16. I am a benefit recipient who has been repaying via the actuarial reduction method. Will I be involved in this recovery effort?

A: No. If your benefit was adjusted prior to Judge Kantor's June 20, 2007 ruling, you had the option at that time to pay in a lump sum or to have a deduction calculated under the actuarial reduction method (ARM). If you chose to have the ARM deduction, that deduction will continue to be applied and no additional or different deduction will be taken.

Q17. Who do I contact if I have questions that are not answered by this FAQ?

A: For questions not answered here, please [email your questions to PERS](#). We will update the FAQs periodically to reflect additional questions of shared interest.