

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%, instead of the original 20%.

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% 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 were mailed a letter in late April 2012 explaining the recovery process, and a second letter will be mailed 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%) 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. Why not allow those benefit recipients who have ongoing benefits to choose the amount of the monthly deduction?

A: The percentage deduction will be set at the level required to recover the overpayment in a maximum payoff period of 10 years. At 2%, some people will repay in just a few years, while others could take over 40 years. The letter mailed to this group in late April 2012 explains that the actual default deduction will range from 2 to 5%. This is to ensure we recover within a reasonable time frame of 10 years. These side-boards were necessary so recovery would not stretch out for decades for some benefit recipients.

Even within these general guidelines, there are still some outliers. About 200 recipients out of the 18,400 ongoing monthly benefit population will need a higher deduction, or to arrange payment plans to supplement their monthly deduction, to close the recovery within that 10-year window. While the April 2012 letter talked about a range, the individual recipient's letter will drill down to the particular rate. For monthly benefit recipients who did not retire with a half-lump sum option (about 16,000), over 80% of those recipients will pay off at 2% within 10 years; another 16% will pay off at 5%; only 1% (about 160 people) fall outside these bounds. For those that took the half-lump sum option (about 2,700 people), their repayments are challenged because their annuity was reduced when they took the partial lump sum. Payments for this group will need to be increased as a percentage of their benefit, if that is the option they choose. Even so, at 10% of a deduction, 96% of these will pay off within 10 years.

Q7. 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.

Q8: 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.

Q9: Will interest be charged on the amount owed?

A: No interest will be charged.

Q10. Will the monthly deduction be pre- or post-tax?

A: The deduction will be pre-tax.

Q11. 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.

Q12. 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.

Q13. 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.

Q14. I am not a “window retiree.” Why am I included in the overpayment recovery?

A: The population includes more than just those persons referred to as “window retirees,” a term that refers to Tier One members who retired on or after April 1, 2000, and before April 1, 2004 under the Money Match benefit calculation method. The actual affected population is much broader as it includes anyone who received an erroneous benefit to the extent that benefit was based on crediting 1999 earnings at 20% rather than 11.33%.

This population includes some of those retired members but also their beneficiaries or alternate payees, as well as people who received a withdrawal, disability benefit, death benefit, or any other payment that was overpaid because it was based on the erroneous 1999 crediting. So, “window retirees” are not the only ones affected. For example, those who retired under the Formula Plus Annuity calculation method are affected if they had 20% earnings crediting from 1999 because the annuity portion of the benefit is based on an account balance.

Lump-sum payments taken in installments and received by benefit recipients after 1999 earnings were credited to accounts are affected. Also, if you were a police and firefighter member and began taking unit payments after 1999 earnings were credited to accounts, your unit payments are affected if you received 20% earnings crediting for 1999.

<u>Recipient Type</u>	<u>No.</u>	<u>Total Owed</u>	<u>Average</u>
Monthly Retirements	19,014	\$125,645,678	\$6,608.06
Lump Sum Retirements	1,905	\$19,002,499	\$9,975.07
Withdrawals	4,023	\$5,474,239	\$1,360.74
Police & Fire Unit Accounts	1,272	\$490,966	\$385.98
Deceased Members (received overpayment prior to death)	1,675	\$8,026,905	\$4,792.18
Beneficiaries (a survivor of a deceased person who is or has received benefits)	1,209	\$6,044,312	\$4,999.43

Q15. 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.

Q16. 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).

Q17: 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% to 11.33% 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.

Q18. 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.

Q19. 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.