



Oregon Employment Department Advisory Council

Senate Bill 172 Rulemaking Update January 25, 2023

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Senate Bill 172 (2021)

- Senate Bill (SB) 172 was signed by Governor Brown on July 7, 2021, but has an operative date of June 23, 2021.
- The bill allows the Oregon Employment Department to deduct all or part of unemployment insurance benefit overpayments against future weekly benefits within five years.
- This applies to overpayments that were the claimant's fault, but not because of willful misrepresentation, and for overpayments that were not the claimant's fault.

Senate Bill 172 (2021) (cont.)

- Prior to this legislation, the Oregon Employment Department was required to recover the entirety of the overpayment.
- SB 172 gives the department the discretion to waive the overpayment entirely or partially based on equity and good conscience.



Initial Rulemaking

- The Oregon Employment Department shared draft rules with stakeholder groups and others in November 2021 to solicit feedback.
- First round of public rulemaking in March 2022.
- Second round of public rulemaking in December 2022.



December Rulemaking

- OAR 471-030-0053 was updated to be consistent with the waiver provisions within the amended ORS 657.317.
- OAR 471-030-0320 was created to address the percentage of future weekly benefits that may be offset and sets a five-year time limit on collection activities.
- OAR 471-030-0017 was created to address when remuneration is reportable to the department.



Rulemaking Feedback

- Oregon AFL-CIO and Oregon Business and Industry (OBI) provided feedback during the December public comment period in a joint letter (paraphrased):
 - Revise the definition of equity and good conscience to include other factors.
 - Establish financially eligible for a waiver if the household income is at or below 200% of the federal poverty guideline.
 - Simplify the waiver application process to only require self-attestation with a follow-up process to provide proof only where necessary.
 - Create a list of qualifying public benefits of which if any household member is receiving those benefits, presumptively the claimant would meet the criteria for a waiver.
- The Oregon Law Center provided feedback during the public comment period in March and December.

2023 Rulemaking

- Due to modernization of the Oregon Employment Department's legacy mainframe system, parts of the system are under a code change freeze.
- Many of the department's subject matter experts are working on designing the future system.
- Amend OAR 471-030-0053 and adopt OAR 471-030-0320 as promulgated in December.



2023 Rulemaking (cont.)

- Public listening sessions will be conducted in late summer / early fall.
- Feedback and proposed changes will be shared with the OED Advisory Council.
- The Oregon Employment Department takes feedback seriously.



Waiver Form Update

- Worked with the Oregon Law Center to update the state overpayment waiver form to make it simpler for customers to complete.
- The internal review process changed in September; the department now assumes the federal maximum allowance for all expense categories.
- The new form is now available in multiple languages in paper and electronic formats.



Waiver Form Update (cont.)

CAT 539

Oregon State Overpayment Waiver Application

Full Name (last, first, middle initial)
 Other Names Used
 Social Security Number Phone Number
 Email Address
 Home Address: City State
 Zip Code County
 Mailing Address: City State
 Zip Code



The Oregon Employment Department (OED) is an equal opportunity agency serving the Oregon workforce. Some examples are sign language and spoken-language interpreters, print, audio, and other formats. To get help, please call 877-688-3204. TTY: 503-985-6262 or email UOOverpayments@oregon.gov.

El Departamento de Empleo de Oregon (OED) es una agencia de igualdad de oportunidades que atiende a todos nuestros servicios. Algunos ejemplos son intérpretes de lenguaje de señas, materiales escritos en otros idiomas, letra grande, audio y otros. Si usted necesita ayuda, llame al 877-688-3204. Usuaros de TTY pueden llamar al 711. También pueden escribirnos al UOOverpayments@oregon.gov.

Why Request An Overpayment Waiver?

Overpayments of state unemployment insurance benefits are eligible for waiver if the cause is financial hardship and if the overpayment is not the result of fraud. No regular unemployment insurance benefits, regardless of who is at fault for the overpayment, are eligible for this type of waiver. If you do not know for sure which form to use,

We consider you eligible to be a financial hardship if at least 50% of a household's expenses. We assume a claimant's expenses are the same as the IRS lists at the end of this form.

If you want to request a waiver, fill out this application and follow the instructions to estimate your debt and stop all collection efforts on all eligible balances. If you are unable to determine if your debt relief is available, this can take six months or reducing offset of current benefits by half.

Please return your overpayment waiver application as soon as possible. If you submit it to the department, it is not retroactive. You will receive a written decision and instructions for how to appeal the decision, if it's denied.

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Instructions for Completing A Waiver Application

- Complete the waiver application with your signature and date. You must sign the application for us to process it.
- Provide proof of all income. This includes income for everyone you listed as part of your household. You must submit supporting documents with your application. Failure to include them may result in a denial of the waiver (examples of supporting documents start on Page 4).

Waiver Request Submission Instructions

- You can submit your overpayment waiver application in a variety of ways:
- Mail: UOOverpayments@oregon.gov - Subject: "Waiver Request"
- Electronically: Contact Us oeedcontactus.oregon.gov/hotline-us/requestsnew
- Fax: 503-947-1811 - ATTN: EPC Waiver Requests
- Mail: EPC Overpayment Waivers PO Box 14130, Salem, OR 97311

If you have questions regarding the waiver application form, or need help filling it out, please call line: 877-688-3204, Monday-Friday 9 a.m. to 5 p.m. If you need help in a language not an interpreter for you.

Who is in your household?

Your "household" includes Claimant (yourself), your spouse or domestic partner, and any other person who is a member of your household (including those listed above) who are partners or have roommates, you do not need to include their income unless they are dependent.

Household Information

List all the people in your household, including yourself. **WE WILL NEED PROOF OF INCOME FOR ALL PERSONS LISTED BELOW.** If you need proof, please enter that information in the notes section on the last page.

First Name	Last Name	Relationship

How Many Automobiles Does Your Household Own or Lease?

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Income Information

Include proof of income with your waiver application when you submit it. Acceptable proof is described on the last three pages of this form.

Provide monthly income information for everyone in the household, including yourself, who is earning wages from an employer and from other sources. For income that is not received monthly, you must provide a monthly average.

Employment Information	Employer Name	Employer City and State	How Often Are They Paid?	How Much Are They Paid?

Other Income Information

Provide a summary of other income in the household, including yourself, that is not from wages. For income that is not received monthly, provide a monthly average.

Source	Gross Monthly Income	Source	Gross Monthly Income
Net Business Income \$		Net Rental Income \$	
Investment Income \$		Retirement Distributions \$	
Pension Income \$		Social Security Income \$	
Child Support \$		Alimony \$	
Public assistance (e.g., Supplemental Nutrition Assistance Program/Food Stamps, Energy Assistance, WIC)		Other (Describe) \$	

Certification and Authorization to Release Information

I swear or affirm that the information provided is true and complete. I authorize the release of any financial information to the Oregon Employment Department to verify the accuracy of the above information. I understand providing false information will result in denial of my request for waiver of overpayment recovery.

Signature: _____ Date: _____

Printed Name: _____

Extraordinary Circumstances: Please check this box, if you believe you have basic living expenses that may exceed the IRS National and Local standards. We may request additional information as needed.

IRS National and Local standards: When receiving your waiver application to see if an overpayment could cause you a financial benefit, we compare your expenses to the same as the national list of the food, clothing, health care, housing, utilities, and transportation (IRS National and Local standards) (<https://www.irs.gov/individuals/international-taxpayers/irs-national-and-local-standards>)

NOTES: Please use this section to explain and clarify any details of your income documentation that will help us understand your circumstances when we conduct our review (i.e. name discrepancies, etc.)

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Supporting Documentation Examples

Refer to the information below for documentation we may require you to provide.

Income Documentation

Please provide the most up-to-date documents possible. We may not accept documents that are more than 90 days old.

Type of Income: Documentation Examples

- Employment income**
 - OPTION A
 - > One month's worth of the most recent pay stubs
 - If someone is paid less frequently than monthly, the most recent pay stub is sufficient
 - OPTION B (if the employee has been working less than one month or does not receive pay stubs)
 - > A letter from the employer containing the name of the start date, the rate of pay, and the number of hours worked each week.
 - OPTION C (if the employee does not receive pay stubs)
 - > Two months' worth of the most recent bank statement income
 - Employment income is paid in cash, it does not involve making a deposit, payroll less of bank statements
- Net business income**
 - OPTION A
 - > A full copy of the federal tax return from the most recent 18 months since the end of the filing period attachments
 - OPTION C (if no recent tax return is available or the most recent tax return is not available)
 - > PROVIDE ALL OF THE FOLLOWING
 - A signed and dated profit and loss statement of business activity
 - Do not include any expenses for information section in the profit and loss statement
 - AND two months' worth of the most recent business activity
 - If business income or expenses or in any way that does not involve receipts are acceptable in lieu of all

Net rental income continued

- AND a signed and dated rental property expense statement showing expenses (home loan payments, maintenance costs, etc.) for each rental property associated with each provided rental agreement
- Do not include any expenses from the Personal Expenses information section in the rental property expense statement
- AND two months' worth of the most recent bank statements showing rental income and expenses
 - If rent or expenses are paid in cash, money order, or in any way that does not involve making a deposit, payment receipts are acceptable in lieu of bank statements.

Investment income

- OPTION A
 - > A full copy of the federal tax return from the most recent filing year (no greater than 18 months since the end of the filing period), including schedules and attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > Two months' worth of the most recent bank statements showing investment account income

Retirement distributions

- OPTION A
 - > A full copy of the federal tax return from the most recent filing year (no greater than 18 months since the end of the filing period), including schedules and attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > PROVIDE ALL OF THE FOLLOWING
 - A copy of the most recent account statement for each retirement account showing the current monthly distribution amount and remaining balance
 - AND two months' worth of the most recent bank statements showing retirement account income

Public assistance (SNAP, TANF, etc.)

- An official letter, statement, or benefit amount, frequency, or date
- OPTION A
 - > A full copy of the first two 18 months since attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > PROVIDE ALL OF THE FOLLOWING
 - A copy of the most recent tax return showing the amount of public assistance received
 - AND two months' worth of the most recent bank statements showing Social Security income

Pension income

- An official letter, statement, or benefit amount, frequency, or date
- OPTION A
 - > A full copy of the first two 18 months since attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > PROVIDE ALL OF THE FOLLOWING
 - A copy of the most recent pension statement showing the amount of pension received
 - AND two months' worth of the most recent bank statements showing Social Security income

Child support/alimony

- PROVIDE ALL OF THE FOLLOWING
 - > A copy of the current (not expired) signed court or administrative order with the details of the child support or alimony amount, payment frequency, and term duration
 - > AND two months' worth of the most recent bank statements showing child support and alimony income
 - If child support and alimony is paid in cash, money order, or any way that does not involve making a deposit, payment receipts are acceptable in lieu of bank statements

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Supporting Documentation Examples

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Income Documentation

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- Employment income**
 - OPTION A
 - > One month's worth of the most recent pay stubs
 - If someone is paid less frequently than monthly, the most recent pay stub is sufficient
 - OPTION B (if the employee has been working less than one month or does not receive pay stubs)
 - > A letter from the employer containing the name of the start date, the rate of pay, and the number of hours worked each week.
 - OPTION C (if the employee does not receive pay stubs)
 - > Two months' worth of the most recent bank statement income
 - Employment income is paid in cash, it does not involve making a deposit, payroll less of bank statements
- Net business income**
 - OPTION A
 - > A full copy of the federal tax return from the most recent 18 months since the end of the filing period attachments
 - OPTION C (if no recent tax return is available or the most recent tax return is not available)
 - > PROVIDE ALL OF THE FOLLOWING
 - A signed and dated profit and loss statement of business activity
 - Do not include any expenses for information section in the profit and loss statement
 - AND two months' worth of the most recent business activity
 - If business income or expenses or in any way that does not involve receipts are acceptable in lieu of all

Net rental income continued

- AND a signed and dated rental property expense statement showing expenses (home loan payments, maintenance costs, etc.) for each rental property associated with each provided rental agreement
- Do not include any expenses from the Personal Expenses information section in the rental property expense statement
- AND two months' worth of the most recent bank statements showing rental income and expenses
 - If rent or expenses are paid in cash, money order, or in any way that does not involve making a deposit, payment receipts are acceptable in lieu of bank statements.

Investment income

- OPTION A
 - > A full copy of the federal tax return from the most recent filing year (no greater than 18 months since the end of the filing period), including schedules and attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > Two months' worth of the most recent bank statements showing investment account income

Retirement distributions

- OPTION A
 - > A full copy of the federal tax return from the most recent filing year (no greater than 18 months since the end of the filing period), including schedules and attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > PROVIDE ALL OF THE FOLLOWING
 - A copy of the most recent account statement for each retirement account showing the current monthly distribution amount and remaining balance
 - AND two months' worth of the most recent bank statements showing retirement account income

Public assistance (SNAP, TANF, etc.)

- An official letter, statement, or benefit amount, frequency, or date
- OPTION A
 - > A full copy of the first two 18 months since attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > PROVIDE ALL OF THE FOLLOWING
 - A copy of the most recent tax return showing the amount of public assistance received
 - AND two months' worth of the most recent bank statements showing Social Security income

Pension income

- An official letter, statement, or benefit amount, frequency, or date
- OPTION A
 - > A full copy of the first two 18 months since attachments
 - OPTION B (if no recent tax return is available or the income is too new)
 - > PROVIDE ALL OF THE FOLLOWING
 - A copy of the most recent pension statement showing the amount of pension received
 - AND two months' worth of the most recent bank statements showing Social Security income

Child support/alimony

- PROVIDE ALL OF THE FOLLOWING
 - > A copy of the current (not expired) signed court or administrative order with the details of the child support or alimony amount, payment frequency, and term duration
 - > AND two months' worth of the most recent bank statements showing child support and alimony income
 - If child support and alimony is paid in cash, money order, or any way that does not involve making a deposit, payment receipts are acceptable in lieu of bank statements

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Overpayment Waivers

- There were 28 overpayment deferrals granted in 2019, totaling over \$23K.
- In 2022:
 - 526 waivers were approved for claimant fault overpayments, totaling over \$1.5M.
 - 6,122 waivers were approved for non-claimant fault overpayments, totaling over \$28.5M.
- After implementing the new automatic maximum expenses process in September, the vast majority of state waiver requests have been approved based on income alone.
- The department will continue to monitor how the changes impact customers.



Thank You

