



Poverty Law Project

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Rep. Michael Marcotte, Chair

House Committee on Commerce and Economic Development

Via email: mmarcotte@leg.state.vt.us

Dear Chair Marcotte:

Thank you for the invitation to provide testimony to your committee about H. 55 and H.92 on Thursday. I hope I will also have time to speak to the Committee about formerly unemployed Vermonters owing large overpayments to the Department of Labor from receiving Unemployment Compensation during the height of the pandemic. It was a confusing time. Many people made honest mistakes and were overpaid.

Vermonters received Vermont Unemployment Compensation benefits and federal "CARES Act" benefits during the height of the pandemic (May 2020 until September 2021) . Due to misunderstandings and errors, many unemployed Vermonters received incorrect amounts of unemployment benefits through no fault of their own. For most claimants (in our experience) the federal portion is between \$2,000 and \$8,000, or half of their total overpayment. DOL does not have a handle on exactly how much these overpayments total, but they have told us it is likely at least \$4 million dollars and could be twice that. Formerly unemployed people are receiving bills from the Vermont Department of Labor, telling them they owe DOL large overpayments, and they need to pay the money back.

The Federal Department of Labor instructed states in February of 2022 that **states could and should waive the federal portion of COVID overpayments when claimants were without fault for the overpayment**, and it would be unfair to continue to send bills to these formerly unemployed people.

The Vermont DOL wrote a policy in June of 2022 to meet federal guidance to administratively waive repayment of these CARES Act (COVID related) overpayments. However, despite the well-written policy (which is attached) **we have not seen the Department advertise or implement this waiver policy for the people who are receiving large bills from the Department of Labor**. The policy is widely implemented by administrative law judges and the ESB in their current decisions that are being issued now. However, this only helps those who have a current appeal in process. Many more Vermonters already have a final overpayment decision, since the money was given out May 2020 until September 2021. Many people are receiving bills from VDOL for

thousands of dollars. There is no public information on the Department of Labor website or other public platforms explaining that claimants can ask for the federal portion to be forgiven. There is no notice on the bills that a portion could be waived. There is not a working system within the Department of Labor to decide on these waivers when requested. **The Department of Labor has stalled and is not informing or forgiving claimants who are eligible to have their overpayments waived under the Department of Labor's policy.**

An additional problem is that all these Vermonters could lose their tax refund if they are to get one. We are concerned that the Department will offset Vermonters' 2023 state income tax refunds as repayment for CARES Act overpayments before those individuals are informed that waiver is available, and they are told how to apply. The Governor has proposed a very good Earned Income Tax Credit, but these claimants, who were without fault, may not get that Tax Credit because it could be taken for their Department of Labor debt.

Please ask the Department of Labor to implement their policy. Please ask them to:

- put out a press release about waivers,
- put a notice on their website about waivers,
- include a notice about waivers with overpayment decisions; and,
- include a notice about waivers with overpayment bills.

Thank you so much for your help on this. I am copying Barb Prine, who is also a Legal Aid Attorney and equally knowledgeable about Unemployment Compensation. Either of us would be happy to answer your questions.

Sincerely,

Kelli Kazmarski

Kelli Kazmarski

cc: Barb Prine, Staff Attorney, VT Legal Aid