

**H.55: Side-by-Side Comparison  
Of  
Unemployment Compensation Overpayment Waiver Proposals**

<b>Waiver of Overpayment Option 1: VDOL Proposal</b>	<b>Waiver of Overpayment Option 2: VT Legal Aid Proposal</b>
<p>§ 1347. NONDISCLOSURE OR MISREPRESENTATION * * *</p> <p><u>(f)(1) Notwithstanding any provision of subsection (a), (b), or (d) of this section to the contrary, the Commissioner shall waive the full amount of any overpayment that is not a result of the person’s intentional misrepresentation of or failure to disclose a material fact if:</u></p> <p style="padding-left: 40px;"><u>(A) the overpayment occurs through no fault of the person; and</u></p> <p style="padding-left: 40px;"><u>(B) recovery of the overpayment would be against equity and good conscience.</u></p> <p><u>(2) Upon making a determination that an overpayment occurred pursuant to subsection (a) or (b) of this section, the Commissioner shall, to the extent possible and in consideration of the information available to the Department, determine whether waiver of the amount of overpaid benefits is appropriate.</u></p> <p><u>(3) The Commissioner shall provide notice of the right to request a waiver of an overpayment with each determination that an overpayment has occurred. The notice shall include clear instructions regarding how a person may apply for a waiver.</u></p> <p><u>(4) If the Commissioner denies an application for a waiver, the Commissioner shall provide written notice of the person’s right to appeal the determination pursuant to subsection (h) of this section.</u></p> <p><u>(g) The provisions of subsection (f) of this section shall, to the extent permitted by federal law, apply to overpayments made in relation to any federal unemployment insurance benefits or similar federal benefits, including Disaster Unemployment</u></p>	<p>§ 1347. NONDISCLOSURE OR MISREPRESENTATION; <u>OVERPAYMENTS; WAIVER</u> * * *</p> <p><u>(f)(1) Notwithstanding any provision of subsection (a), (b), or (d) of this section to the contrary, the Commissioner shall waive the full amount of any overpayment that is not a result of the person’s intentional misrepresentation of or failure to disclose a material fact if:</u></p> <p style="padding-left: 40px;"><u>(A) the overpayment occurs through no fault of the person; and</u></p> <p style="padding-left: 40px;"><u>(B) recovery of the overpayment would be against equity and good conscience.</u></p> <p><u>(2) A person may request a waiver of an overpayment at any time after receiving notice of a determination pursuant to subsection (a) or (b) of this section.</u></p> <p><u>(3) Upon making a determination that an overpayment occurred pursuant to subsection (a) or (b) of this section, the Commissioner shall, to the extent possible and in consideration of the information available to the Department, determine whether waiver of the amount of overpaid benefits is appropriate.</u></p> <p><u>(4) The Commissioner shall provide notice of the right to request a waiver of an overpayment with each determination that an overpayment has occurred. The notice shall include clear instructions regarding the circumstances under which a waiver may be granted and how a person may apply for a waiver.</u></p> <p><u>(5) If the Commissioner denies an application for a waiver, the Commissioner shall provide written notice of:</u></p>

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Assistance and federal extended or supplemental unemployment insurance benefits.

(h) Interested parties shall have the right to appeal from any determination under this section and the same procedure shall be followed as provided for in subsection 1348(a) and section 1349 of this title.

(i) The Commissioner shall not attempt to recover an overpayment or withhold any amount of unemployment insurance benefits from a person until after the Commissioner has made a final determination regarding whether an overpayment of benefits to the person occurred and the person's right to appeal the determination has been exhausted.

(A) the denial with enough information to ensure that the person can understand the reason for the denial; and

(B) the person's right to appeal the determination pursuant to subsection (h) of this section.

(g) The provisions of subsection (f) of this section shall, to the extent permitted by federal law, apply to overpayments made in relation to any federal unemployment insurance benefits or similar federal benefits.

(h) Interested parties shall have the right to appeal from any determination under this section and the same procedure shall be followed as provided for in subsection 1348(a) and section 1349 of this title.

(i) The Commissioner shall not attempt to recover an overpayment or withhold any amounts of unemployment insurance benefits from a person:

(1) until after the Commissioner has made a final determination regarding whether an overpayment of benefits to the person occurred and the person's right to appeal the determination has been exhausted; or

(2) if the person filed an application for a waiver, until after the Commissioner has made a final determination regarding the application and the person's right to appeal the determination to the referee or to the Board has been exhausted.

(j)(1) The Commissioner shall provide any person who received an overpayment of benefits and is not currently receiving benefits pursuant to this chapter with the option of entering into a plan to repay the amount of the overpayment. The plan shall provide for reasonable weekly, biweekly, or monthly payments in an amount that permits the person to continue to afford the person's ordinary living expenses.

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	<p style="text-align: center;">(2) <u>The Commissioner shall permit a person to request a modification to a repayment plan created pursuant to this subsection if the person's ability to afford ordinary living expenses changes.</u></p>
	<p style="text-align: center;">§ 1347. NONDISCLOSURE OR MISREPRESENTATION; OVERPAYMENTS; WAIVER * * *</p> <p style="text-align: center;">(d) In any case in which under this section a person is liable to repay any amount to the Commissioner for the Fund, the Commissioner may withhold, <del>in whole or in part, any</del> future benefits payable to <del>such</del> <u>the</u> person, <u>in amounts equal to not more than 50 percent of the person's weekly benefit amount,</u> and credit <del>such</del> <u>the</u> withheld benefits against the amount due from <del>such</del> <u>the</u> person until it is repaid in full, less any penalties assessed under subsection (c) of this section. * * *</p>