



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY  
LANSING

SUSAN CORBIN  
DIRECTOR

## MEMORANDUM

**DATE:** May 2, 2022

**TO:** The Honorable Ken Horn, Chair  
Senate Appropriations Subcommittee on Talent and Economic  
Development/MEDC  
Senate Standing Committee on Economic and Small Business Development

The Honorable Beth Griffin, Chair  
House Standing Committee on Workforce Trades and Talent

The Honorable Greg VanWoerkom, Chair  
House Appropriations Subcommittee on General Government

**FROM:** Julia Dale, Director  
Michigan Unemployment Insurance Agency  
Department of Labor and Economic Opportunity

**SUBJECT:** Unemployment Insurance Agency Hardship Waiver Report 2021

The Hardship Waiver Program was created by the enactment of Public Act 1 of 1936, Employment Security Act (MES Act). The Hardship Waiver's purpose is to allow an individual to request a waiver of recovery for the balance of an overpayment account that does not involve fraud.

Per Section 421.62g of the Employment Security Act, the Unemployment Insurance Agency shall provide a written report regarding waivers to the chairpersons of the standing committees and the appropriations subcommittees of the house of representatives and senate having jurisdiction over legislation pertaining to employment security that includes:

- i. The procedures relating to waivers that the unemployment agency used or adopted.
- ii. The number of applications for a waiver the unemployment agency received.
- iii. The number of individuals who submitted an application for a waiver.
- iv. The number of waivers that were granted by each of the following methods:
  - a. An unemployment agency determination.
  - b. An unemployment agency redetermination.
  - c. An administrative law judge order.

- d. A Michigan compensation appellate commission order.
- e. A court order.
- v. The number of waivers that were denied, tabulated by the reason for the denial, by each of the following methods:
  - a. An unemployment agency determination.
  - b. An unemployment agency redetermination.
  - c. An administrative law judge order.
  - d. A Michigan compensation appellate commission order.
  - e. A court order.
- vi. The total amount of restitution waived.

Should you have any questions regarding this report or need additional information please contact Rachael Wineland, UIA Legislative Liaison, at [WinelandR@michigan.gov](mailto:WinelandR@michigan.gov) or 517- 290-3053.

## UIA Hardship Waiver Annual Report 2021

(g) By January 31 each year, beginning in 2019, the unemployment agency shall provide a written report regarding waivers under subsection (a)(ii) to the chairpersons of the standing committees and the appropriations subcommittees of the house of representatives and senate having jurisdiction over legislation pertaining to employment security. The report must include all of the following information from the immediately preceding calendar year in a form that does not identify an individual, claimant, or employer: (i) The procedures relating to waivers that the unemployment agency used or adopted. (ii) The number of applications for a waiver the unemployment agency received. (iii) The number of individuals who submitted an application for a waiver. (iv) The number of waivers that were granted by each of the following methods: (A) An unemployment agency determination. (B) An unemployment agency redetermination. (C) An administrative law judge order. (D) A Michigan compensation appellate commission order. (E) A court order. (v) The number of waivers that were denied, tabulated by the reason for the denial, by each of the following methods: (A) An unemployment agency determination. (B) An unemployment agency redetermination. (C) An administrative law judge order. (D) A Michigan compensation appellate commission order. (E) A court order. (vi) The total amount of restitution waived

### 1. Procedures related to waivers that the unemployment agency used or adopted.

#### **Requirements**

- a. An individual may request waiver of recovery for the balance of an overpayment due to financial hardship on an established overpayment account that does not involve fraud.
- b. Form UIA 1795, *Statement of Financial Condition*, is used as the waiver application and is not required to be notarized.
- c. An individual requesting a waiver must disclose their current financial condition on Form UIA 1795 or through their MiWAM account.
- d. A waiver application may be submitted once every 6 months. If denied, the claimant may protest. The protest must address the original application. If a waiver is allowed as a result of a protest, a redetermination should be issued.
- e. UI staff are responsible for issuing the (re)determination on Form UIA 1302, *Notice of (Re)Determination*.

#### **Process**

1. Review the account to determine if there is fraud on the overpayment or if a judgement exists on the account. If the overpayment was established due to fraud, or there is a judgement against the claimant for the entire balance, the claimant must be notified that they do not qualify for a waiver. If there is a portion of the overpayment that is not established based on fraud or is not included in the

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judgement the claimant is to be informed that they can apply for a waiver of the non-fraud/non-judgement portion of the overpayment.

2. Review Form UIA 1795 with the claimant and provide direction on completion and submission of the form.

### **Evaluation of Waiver Request**

1. The decision to allow a waiver is based on information provided by the claimant on Form UIA 1795.
2. If the claimant is eligible for consideration of a waiver, review the following factors:
  - Was the restitution established due to fraud? If no, continue. If yes, the request is denied.
  - Does the claimant have a judgement? If yes, has the restitution been forgiven or set aside by the court? If no, the request is denied. If yes, continue.
  - Has evidence of financial hardship been established? If no, deny the request. If yes, allow the waiver.
3. Evaluate the following factors for eligibility of a waiver:
  - If dependents listed are allowable under Section 27 of the MES Act.
  - All income of the claimant, their spouse, and all dependents, from all sources for the last six completed months.
4. If the average monthly net income does not exceed the guidelines established by the MES Act, the waiver request will be granted.

### **Issuing (Re)Determinations**

**If allowed** – Only one determination is needed to cover the balance of all non-fraud restitution owed. If overpayment also contains fraud, a separate determination should be issued related to that overpayment balance. In accordance with Sec. 62(a) of the MES Act, a refund will be generated for monies collected or recouped between the time the individual applied for the waiver and the date the waiver was approved.

**If denied** – A nonmonetary determination indicating the reason for denial will be issued with the reason.

**Redeterminations** – If the request is untimely, deny or allow in the same manner as any other protest after fact finding has been conducted to determine if there was good cause for the late protest. If the redetermination allows the request for waiver, a

redetermination is issued, and issue subsequent action for allowed or denied depending on the circumstances.

2. Number of applications for a waiver the agency received.

17,589

3. Number of individuals who submitted an application for a waiver.

17,418

4. Number of waivers granted by the following:

- a. Unemployment agency determination

75

- b. Unemployment agency redetermination

5

- c. An administrative law judge order

5

- d. Michigan Compensation Appellate Commission order

0

- e. Court order

0

5. Number of waivers denied by the following:

- a. Unemployment agency determination

879

- b. Unemployment agency redetermination

4

- c. An administrative law judge order

10

- d. Michigan Compensation Appellate Commission order

0

- e. Court order

0

5. Amount of restitution waived

\$540,255.55