

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Lydia Edwards

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to correct non-fault unemployment insurance overpayments.

PETITION OF:

NAME:

Lydia Edwards

DISTRICT/ADDRESS:

Third Suffolk

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1162 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to correct non-fault unemployment insurance overpayments.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 69 of chapter 151A of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking out the first paragraph of subsection (a) and
3 inserting in place thereof the following:-

4 (a) The department may recover by a civil action any amounts paid to an individual
5 through error, or, in the discretion of the department, the amount erroneously paid may be
6 deducted from any future payments of benefits accruing to an individual under the provisions of
7 this chapter, provided that there has been a final decision as defined in Section 69D, and
8 provided further that if the department has not determined that the individual was at fault with
9 respect to such erroneous payment, such deduction shall not exceed ten percent of the
10 individual’s weekly benefit rate, exclusive of dependency allowances. Any civil action brought
11 pursuant to this subsection shall be commenced within six years from the date of the erroneous

12 payment, provided that, if the department has not determined that the individual was at fault with
13 respect to such erroneous payment, any civil action shall be commenced within three years from
14 the date of the erroneous payment and no deduction shall be made from any future payments of
15 benefits accruing to the individual more than three years after such erroneous payment was
16 made.

17 SECTION 2. Section 69 of chapter 151A of the General Laws, as so appearing, is hereby
18 amended by striking out subsection (b) and inserting in place thereof the following:-

19 (b) The department shall cancel the balance of restitution for an erroneous payment
20 owed by an individual under this subsection three years after such erroneous payment was made
21 if, in the judgment of the department, the individual was without fault with respect to such
22 erroneous payment. The department may cancel any other balance of restitution owed by an
23 individual under this section if the department finds that such individual is deceased and has left
24 no estate or that, after five years following notice to the individual that such restitution was
25 required, the individual has not claimed benefits and cannot be located.

26 SECTION 3. Section 69 of chapter 151A of the General Laws, as so appearing, is hereby
27 amended by striking out subsection (c) and inserting in place thereof the following:-

28 (c) Waiver of Non-Fault Overpayments:

29 (1) The department shall waive recovery of an overpayment of benefits, including
30 dependency allowances, paid pursuant to chapter 151A of the General Laws to an individual
31 who, in the judgment of the department, is without fault.

32 (2) The department shall waive recovery of an overpayment of benefits, including
33 dependency allowances, paid through the Department of Unemployment Assistance pursuant to
34 any other state or federal law to the extent permitted by such laws, to an individual who, in the
35 judgment of the department, is without fault.

36 (3) For any overpayment of benefits which cannot be waived pursuant to subsection
37 (c)(1) or (c)(2), the department shall waive recovery of the overpayment of benefits, including
38 dependency allowances, paid pursuant to chapter 151A of the General Laws or through the
39 Department of Unemployment Assistance pursuant to any other state or federal law to the extent
40 permitted by such laws, to an individual who, in the judgment of the department, is without fault
41 and where, in the judgment of the department, such recovery would defeat the purpose of
42 benefits otherwise authorized or would be against equity and good conscience.

43 As used in this subsection, “against equity and good conscience” includes, but is not
44 limited to, circumstances in which:

45 (i) The overpaid claimant, at the time the application for a waiver is filed or while the
46 department is adjudicating such application, is receiving or eligible for Emergency Assistance to
47 Elderly, Disabled, and Children (EAEDC) benefits, public assistance under Transitional Aid to
48 Families with Dependent Children (TAFDC), benefits under the Supplemental Nutritional
49 Assistance Program (SNAP), Supplemental Security Income (SSI) benefits, or Social Security
50 Disability Insurance (SSDI) benefits, or Veterans’ Benefits under Chapter 115 of the General
51 Laws, or has income, after taxes, that is 200 per cent or less of the current poverty threshold
52 established annually by the Community Services Administration pursuant to section 625 of the
53 Economic Opportunity Act, as amended.

54 (ii) The department awarded unemployment benefits and subsequently detected a
55 nonmonetary issue affecting eligibility for benefits but failed to issue a determination regarding
56 that issue within 21 days after the department had initially detected the issue.

57 (iii) The department initially awarded unemployment benefits but reversed the award
58 in whole or part after an appeal or protest that was filed more than 30 days after the initial award.

59 (iv) The overpayment is due to the department's suspension of lack of work notices
60 between the period from March 20, 2020 to June 22, 2020.

61 (v) The overpaid claimant applied for Pandemic Unemployment Assistance (PUA)
62 benefits prior to March 23, 2021, when the department provided notification that required PUA
63 claimants to submit documentation substantiating employment, self-employment, or the planned
64 commencement of such employment or self-employment, and the individual thereafter failed to
65 submit such documentation.

66 (vi) The individual was eligible for payment under an unemployment benefit program
67 for a given week, but through no fault of the individual, they were instead incorrectly paid under
68 either the PUA or Pandemic Extended Unemployment Compensation (PEUC) program at a
69 higher weekly benefit amount.

70 (4) An overpaid claimant shall have the right to file an application for a waiver at any
71 time after such overpayment is established, including during the pendency of any appeal of the
72 determination resulting in the establishment of the overpayment pursuant to Sections thirty-nine
73 to forty-two of this Chapter, inclusive.

74 (5) The department shall provide to overpaid individuals multilingual assistance with the
75 completion of requests for waivers of recovery of overpayments by telephone and in person in all
76 locations where it is required to provide in-person assistance.

77 (6) Any person aggrieved by a determination or decision of the department that recovery
78 of an overpayment not be waived shall have the right to appeal such determination or decision in
79 accordance with the provisions set forth in sections thirty-nine to forty-two, inclusive.

80 (7) The department shall provide individuals notice of their right to file an application to
81 waive recovery of an overpayment in simple and plain language and in the individual's primary
82 language, in accordance with subsection (d) of Section 62A of this Chapter, including but not
83 limited to when the department establishes the overpayment of benefits, when the determination
84 resulting in the overpayment becomes final within the meaning of Section 69D of this Chapter,
85 when the individual files a new claim for benefits from which the department may recover an
86 overpayment by deducting benefits, and when the department sends the individual any
87 communication notifying them of their obligation to repay the department or regarding any
88 collections efforts the department will undertake with respect to such overpayment.

89 (8) With respect to overpayments for which an overpaid claimant has not been
90 determined to be at fault, the department shall not undertake any recovery efforts until sixty days
91 after the individual is notified of the right to file an application for a waiver of the overpayment
92 following the determination resulting in the overpayment becoming final within the meaning of
93 Section 69D of this Chapter, while a request for a waiver of such overpayment is pending, or
94 until a decision denying such a request for a waiver becomes final within the meaning of Section
95 69D; nor shall the department deduct any benefits issued to the overpaid individual in connection

96 with a new claim filed by the individual until sixty days after the individual is notified of their
97 right to file an application for a waiver of such overpayment following the individual's
98 commencement of the new claim from which the department may deduct benefits.

99 (9) With respect to overpayments for which an overpaid claimant has not been
100 determined to be at fault, and to the extent permitted by the treasury offset program of the United
101 States Department of Treasury, the department shall promptly refund to the claimant any amount
102 recovered in connection with such overpayment if the department subsequently waives recovery
103 of such overpayment.

104 SECTION 4. Section 69B of chapter 151A of the General Laws, as so appearing, is
105 hereby amended by striking the first sentence of the first paragraph, at lines 1 through 9, and
106 inserting in place thereof the following:-

107 In addition to any other remedy provided by this chapter, the department may request that
108 the amount payable to the department by an individual resulting from an overpayment of
109 unemployment benefits which has become final as specified in 430 CMR 6.12 be set off against
110 any refund owed such individual by the department of revenue only if the department has
111 determined that the individual was at fault for the overpayment to be set off in a decision which
112 has become final as specified in section 69D of chapter 151A of the General Laws; provided,
113 however, that such individual is notified of the intention to request a set off of the amount owed
114 and the right to apply to the department for a review of such intention.

115 SECTION 5. Section 69B of chapter 151A of the General Laws, as so appearing, is
116 hereby amended by striking the second paragraph, in lines 25 through 31 and inserting in place
117 thereof the following:-

118 In addition to any other remedy provided by this chapter, the department may request that
119 the amount payable to the department by an individual resulting from an overpayment of
120 unemployment benefits which has become final as specified in 430 CMR 6.12 be set off against
121 any federal tax refund payment owed such individual by the United States Department of
122 Treasury in accordance with the requirements of the treasury offset program pursuant to section
123 14Q only if the department has determined that the individual was at fault for the overpayment to
124 be set off in a decision which has become final as specified in section 69D of chapter 151A of
125 the General Laws or if such set off is otherwise required by the treasury offset program.