




# KNOW YOUR RIGHTS:

## Pandemic Unemployment Overpayment Relief in NM

*updated September 2025*

Thousands of New Mexicans were unfairly told they owed money back after receiving pandemic unemployment benefits, not because of anything workers did wrong but due to administrative errors.

Thanks to a settlement in the *Duran v. New Mexico Department of Workforce Solutions (DWS)* class action lawsuit, **60,000 workers may qualify to have that debt forgiven or get refunds** for money they have already repaid. In fact, thousands of workers have gotten refunds from DWS already, but many more are still eligible to apply!

-  **If you've already received a check in the mail**, it's real, and it's safe to cash or deposit it. This money belongs to you.
-  **If you already repaid some or all of your overpayment**—through tax refund interception, wage garnishment, or direct payment—you may be eligible for a refund.
-  **If your UI account says you owe money**, you may be eligible to get it waived.

### You may qualify for relief if:

- You received **federal pandemic unemployment benefits** (like PUA, PEUC, FPUC) between 2020–2021, *and*
- You were told you had an **overpayment**, *and*
- You did **not commit fraud**

**Many people who are eligible for relief never received information from DWS about the lawsuit or the waivers.** Even if you never received notice, you are still eligible if you meet these requirements!

### Applying is easy!

You can apply over the phone, online through your Unemployment Insurance (UI) portal, or in person. ***You have until February 21, 2027 to apply.***

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*For additional information you can visit our website at [nmpovertylaw.org/ui](http://nmpovertylaw.org/ui)*

 **For questions about your individual case, contact DWS directly:**

 1-877-664-6984 | M–F, 8am–4:30pm  
or visit a local DWS or America's Job Center New Mexico office

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### Duran v. NM Dept of Workforce Solutions lawsuit overview

During the pandemic, an unprecedented number of workers across the country and in New Mexico found themselves out of work due to illness, lockdown and stay-at-home orders. To meet the needs of those workers, the federal government provided unemployment benefits to more categories of workers and more money to workers whose jobs were impacted by the pandemic. These were federal benefits, but they were administered by state agencies. In New Mexico, the Department of Workforce Solutions (DWS) administered these benefits.

Through no fault of their own, many people were told that they had received too much money in benefits. **Administrative errors on the part of the Department resulted in tens of thousands of people receiving the wrong amount in unemployment benefits.**

**DWS took aggressive actions** to recover the “overpayments” from workers, including:

- Reducing future unemployment benefits
- Intercepting state tax refunds
- Placing liens on real estate
- Putting people on payment plans

Through these methods and direct payments, many people repaid their whole overpayment amount, but many more could not, and have had ongoing financial problems as a result. Many people lost homes, businesses, cars, and took on debt to deal with these overpayments.

The New Mexico Center on Law and Poverty and Ives and Flores Law Firm **filed a lawsuit against DWS to make them stop taking these aggressive actions, forgive the overpayments and issue refunds to people for any money recouped.** The federal government provided money to DWS to allow the state to forgive the overpayments, and DWS entered a settlement agreement with us in January agreeing to waive (forgive) overpayments and issue refunds to all impacted individuals.

The settlement agreement is legally binding and **individualized waivers will be accepted until February 21, 2027.**

**Impacted workers do not need to do anything to be covered by the lawsuit.**

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### Am I eligible? Getting information about your account

#### These are the requirements to be eligible for relief:

- You received federal pandemic unemployment benefits (like PUA, PEUC, FPUC) between 2020–2021, and
- You were told you had an overpayment, and
- You did not commit fraud

DWS sent notices in the mail or via email to inform impacted individuals about the lawsuit and how to apply for a waiver, but thousands of people never received those notices because their contact information wasn't up-to-date in DWS's system. **Even if you never received notice from DWS, you may still be eligible for relief!**

**The best way to find out whether you have a pandemic overpayment and might be eligible for a waiver and a refund is to get this information directly from DWS.** Your online unemployment insurance (UI) portal will have the relevant information, and you can also apply for a waiver through your online portal too! *For more information about how to apply for a waiver, go to page 5.*

#### Contact DWS

- to learn about the status of your account
- if you no longer have access to your UI portal online
- to find out if you are eligible to apply for a waiver
- to update your contact info so you don't miss important notices

*It's crucial to keep your contact information up to date with DWS. If there are other updates regarding the lawsuit, the waiver process, or your specific account, DWS will reach out to you with the contact information and communication preferences they have on file.*



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### Important Information About Fraud

People who received an overpayment through fraud are excluded from the lawsuit and ineligible for waivers. This **means that you intentionally gave DWS false or misleading information to try to get more unemployment benefits than you were entitled to**, such as lying about how many hours you worked, continuing to request benefits after starting a new job, or withholding information about your income. If your pandemic overpayment was due to fraud, you are not eligible for forgiveness or a refund. Additionally, people who commit UI fraud are barred from receiving UI benefits for a year and can face other penalties.

It's important to know that **making a mistake is different from committing fraud. Even if you made mistakes, you are still covered by the Duran lawsuit and still eligible for waivers and refunds.** During the pandemic, it was often impossible to contact DWS over the phone to ask questions, and the information DWS provided was often confusing or contradictory. As a result many people made innocent mistakes on their UI paperwork. If you were confused, unable to get in contact with DWS, or made a mistake on your paperwork, that's not your fault, and it's not fraud.

**If DWS accused you of fraud and you want to dispute it, you may have options.** You should talk to a lawyer right away, because there may be deadlines. You can contact the New Mexico Center on Law and Poverty or Ives and Flores, who are the attorneys representing the workers in the Duran lawsuit. You can also get assistance from New Mexico Legal Aid by calling 1-833-545-4357.

### How do the waivers work?

**Per the settlement agreement, there are two kinds of waivers that DWS is using to forgive overpayments:**

- Blanket waivers
- Individualized waivers

**Blanket waivers** were granted by DWS automatically using information they already had in their system. Thousands of individuals received either complete or partial blanket waivers and got refund checks without having to do anything. The blanket waiver process was completed in early 2025. DWS is no longer issuing blanket waivers.

- **Important! Many individuals who were granted blanket waivers had checks mailed to the wrong address.** DWS has millions of dollars in refunds that are on hold because the worker's mailing address was out of date and the check was returned-to-sender. Get in touch with DWS as soon as possible to find out if they have a check for you!

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### How do the waivers work? *(continued)*

Individualized waivers are available for any class member whose overpayment wasn't completely forgiven through the blanket waiver process. You submit a simple 2 question application over the phone, via your UI portal, or in person, and if it's approved, you will receive a waiver, and a refund if applicable. *You can find more information about individualized waivers in the section below.*

**Do I need both? Maybe!** If you got a check from DWS, and then got a notice in the mail saying you need to apply for an individualized waiver, that probably wasn't a mistake. **Some people received a partial blanket waiver, but still had an overpayment balance remaining.** This is likely because they received UI benefits from more than one program (for example, they got benefits both from FPUC and from PUA). People in this situation will need to apply for an individualized waiver to get the rest of their balance forgiven. The best way to find out if you still need to apply for a waiver is to log into your UI portal or call DWS right away. That way you can verify your account information and apply for an individualized waiver to take care of your remaining balance if necessary.

**Important note!** *Some people may have all their pandemic overpayment forgiven, but still owe a balance to DWS. The Duran lawsuit only applies to Federal Pandemic Benefits - so if you have an overpayment from standard UI, this waiver process won't forgive that.*

### Applying for an Individualized Waiver

If you didn't get a blanket waiver, or you did but it only covered part of your overpayment, you'll need to apply for an "individualized waiver." **To apply, you will have to answer two simple yes/no questions.** The whole process should take about 2 minutes. You have until February 21, 2027 to apply.

#### **You can apply:**

- **Over the phone** - call 1-877-664-6984 to apply for your waiver over the phone. For a shorter wait time on the phone, Wednesdays and Thursdays are the best days to call!
- **Online through your UI portal** - In the tab labeled "Manage Debt", select the option "Request Overpayment Waiver." There you'll find the status of your overpayment, the application form, and information about the status of your waiver application.
- **In person** - you can go into any DWS office, called "America's Job Centers," to speak to a representative about your overpayment and apply for a waiver in person.

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### Applying for an Individualized Waiver (*continued*)

These are the two questions on the application:

1. **Were you at fault for the overpayment?** If you did not intentionally commit fraud, then the overpayment was not your fault, and you can answer this question, "No."
2. **Would requiring you to repay the overpayment create a financial hardship for you or your family?** If you would have to give up something to repay DWS, or if you relied on receiving and keeping the benefits you got, or if it would be unfair or harm your financial stability, you can answer this question "yes."

That's it! **You don't need to provide any additional information or documentation.** You can also find out more about the application questions on the notices provided by DWS.

### What to do if your claim is locked

**Over 14,000 people impacted by this lawsuit have a "locked claim."** This means that some activity or information relating to the account has raised a red flag. This could be a zip code that doesn't match an area code, an unusual IP address logging into the portal, or multiple people contacting DWS on behalf of the same claimant. **A locked claim is different from a fraud finding, but it does mean that you will need to prove your identity** to DWS to get access to your account again.

To unlock your claim, **the easiest option is to go in person and provide identifying documents** like a driver's license, social security number, passport or other government issued ID. If you can't go in person, you can also call DWS and get assistance with verifying your identity remotely.

**If your claim is locked, you can't:**

- Receive a refund check - even if you got a blanket waiver!
- Apply for a waiver
- Update your contact information
- Access your online portal

If your claim is locked, **you MUST get it unlocked before you can take any other steps.**

- *Some people may need to provide proof to verify their identity in person before they can apply for a waiver or receive a refund.*

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### Your rights if you already paid

Many individuals paid their overpayment debt and considered this issue over and dealt with. Even if you no longer have an overpayment on your UI account, you can still benefit from this lawsuit!

**Waiver applications can forgive overpayments even after the fact.** This means that you will get a refund of any money that you paid! The application only takes a couple of minutes, and many people paid thousands of dollars to resolve overpayments. It's worth it to get in touch with DWS to find out if you can get that money back!

#### Refunds

If you have already repaid part or all of your overpayment and are granted a waiver, you will receive a refund. Even if you never sent a payment to DWS, you may still be entitled to a refund! If they took your tax refund or reduced your UI benefits, that counts as repayment - and you'll get that money back too.

**The overpayment refunds are being sent by a paper check mailed to your mailing address on file.** This is true even if you got your UI benefits by direct deposit. Every person who is getting an overpayment refund is getting a paper check in the mail.

- **It's possible that DWS has already tried to send you a check.** They're holding millions of dollars in refund checks that were returned-to-sender! Update your mailing address as soon as possible! You don't want your check to get lost in the mail!
- **Refunds may take time to process**, so give DWS at least 1 month from the date of your waiver application to send you your refund. But if it's been longer than that, you can call to find out the status of your refund.
- **We know there are a lot of scams out there, but a check from DWS isn't one of them.** Cash or deposit your check as soon as possible when it arrives—it's real, and it's yours!

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You may qualify for a waiver or refund, but **you must apply**. If you already repaid some or all of your overpayment—through tax refund interception, wage garnishment, or direct payment—you may be eligible for a **refund**. If you've already received a check in the mail, **it's real, and it's safe to cash or deposit it**. This money belongs to you.

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- You were told you had an **overpayment**, and
- You did **not commit fraud**

#### Not sure if this applies to you? Call DWS!

There is no harm in calling DWS to find out if you might be eligible to get money back or debt forgiveness.

## Applying for an Individualized Waiver is easy!

You can apply over the phone, online through your UI portal, or in person. To apply, you will have to answer two questions: 1. Were you at fault for the overpayment? And 2. Would requiring you to repay the overpayment create financial hardship for you or your family? Waivers can cancel your debt. **You have until Jan. 9, 2027 to apply.**

## Waiver Questions

### What is the reason for the request for waiver of the overpayment?

Explain why the overpayment occurred. Many were caused by mistakes made by DWS, such as using incorrect tax information or failing to evaluate documents properly. If you're unsure, explain that you followed the instructions and provided accurate information.

### Will paying this overpayment to the New Mexico Department of Workforce Solutions cause a financial hardship?

If repaying the overpayment would cause financial hardship, describe how. Examples include having little savings, difficulty covering basic living expenses, having medical costs, being behind on bills, or losing assets like your home or vehicle due to the pandemic. Be sure to include all reasons why repayment would financially harm you.



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