

04 NCAC 24B .0704 FACTORS IN DETERMINING EQUITY AND GOOD CONSCIENCE

(a) DES shall consider the following factors:

- (1) whether the overpayment resulted from a decision on appeal and whether there was notice to the claimant that the case had been appealed;
- (2) whether there has been an affirmative finding under Subparagraph (a)(1) of this Rule regarding the claimant and the overpayment; and
- (3) whether recovery of the overpayment would cause extraordinary and lasting financial hardship to the claimant resulting in the claimant's loss of or inability to obtain minimal necessities of food, medicine, and shelter; and whether the financial hardship as described may be expected to last for the foreseeable future.

(b) In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time shall be 180 days, and the foreseeable future shall be no less than 360 days.

(c) In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future is the longest potential period of benefit entitlement at the time of the request for a waiver of repayment.

(d) In making financial hardship determinations, DES shall consider all potential income sources of the claimant, the claimant's family, and all cash resources available to the claimant and the claimant's family in the time period being considered.

*History Note: Authority G.S. 96-4; 96-18;
Eff. July 1, 2015.*