

TITLE 219 - DEPARTMENT OF LABOR

CHAPTER 12 - RECOVERY OF BENEFIT OVERPAYMENTS FOR ANOTHER STATE

001. This chapter is adopted pursuant to Neb. Rev. Stat. ' 48-607 and ' 48-665.01.

002. As used in this chapter:

A. "State" includes the States of the United States of America, the District of Columbia, Puerto Rico, and the Virgin Islands.

B. "Offset" means the withholding of an amount against benefits which would otherwise be payable for a compensable week of unemployment.

C. "Overpayment" means an improper payment of benefits, from a State or Federal unemployment compensation fund, that has been determined recoverable under the Requesting State's law.

D. "Participating State" means a State which has subscribed to the Interstate Reciprocal Overpayment Recovery Arrangement.

E. "Paying State" means the State under whose law a claim for unemployment benefits has been established on the basis of combining wages and employment covered in more than one State.

F. "Recovering State" means the State that has received a request for assistance from a "Requesting State."

G. "Requesting State" means the State that has issued a final determination of overpayment and is requesting another State to assist it in recovering the outstanding balance from the overpaid individual.

H. "Transferring State" means a State in which a combined wage claimant had covered employment and wages in the base period of a paying State, and which transfers such employment and wages to the paying State for its use in determining the benefit rights of such claimant under its law.

I. "Liable State" means any State against which an individual files, through another State, a claim for benefits.

003. The requesting State shall:

A. Send the recovering State a written request for overpayment recovery assistance which includes:

1. certification that the overpayment is legally collectable under the requesting State's law;
2. certification that the determination is final;
3. a statement as to whether the State is participating in cross-program offset by agreement with the U. S. Secretary of Labor; and,
4. a copy of the initial overpayment determination and a statement of the outstanding balance.

B. Send notice of this request to the claimant; and,

C. Send to the recovering State a new outstanding overpayment balance whenever the requesting State receives any amount of repayment from a source other than the recovering State (e. g., interception of tax refund, etc.)

004. The recovering State shall:

A. The recovering State shall not redetermine the original overpayment determination.

B. Issue an overpayment recovery determination to the claimant which includes at a minimum:

1. the statutory authority for the offset;
2. the name of the State requesting recoupment;
3. the date of the original overpayment determination;
4. type of overpayment (fraud or nonfraud);
5. program type (UI, UCFE, UCX, TRA, etc.);

6. total amount to be offset;
7. the amount to be offset weekly;

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8. the right to appeal the determination to recover the overpayment by offset.

C. Offset benefits payable for each week claimed in the amount determined under State law; and,

D. Provide the claimant with a notice of the amount offset; and,

E. Prepare and forward, no less than once a month, a check representing the amount recovered made payable to the requesting State, except as provided in 005.A(1)(b) of this chapter.

F. Retain a record of the overpayment balance in its files until at least the exhaustion of benefits, end of the benefit year, exhaustion or end of an additional or extended benefits period, or other extensions of benefits, whichever is later.

005. Overpayment recovery involving combined wage claim

A. The paying State shall:

1. When recovering an outstanding overpayment for transferring State on a combined wage claim

- a. Offset any outstanding overpayment in a transferring State(s) prior to honoring a request from any other "participating State" under this arrangement.

- b. Credit the deductions against the Statement of Benefits Paid To Combined Wage Claimants, Form IB-6, or forward a check to the transferring State as described in 004.E of this chapter.

2. Honor withdrawal request of a combined wage claim after benefits have been paid only if the combined wage claimant has repaid any benefits paid on the combined wage claim or authorizes the new liable State to offset the overpayment.

- a. Upon withdrawal of a combined wage claim, issue an overpayment determination and forward a copy, together with an overpayment recovery request and an authorization to offset, with the initial claim to the new liable State.

B. The recovering State involved in a withdrawn combined wage claim (which is the new liable State) shall:

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1. Offset the total amount of any overpayment, resulting from the withdrawal of a combined wage claim, prior to the release of any payments to the claimant;
2. Offset the total amount of any overpayment, resulting from the withdrawal of a combined wage claim prior to honoring a request from any other participating State under this arrangement;
3. Provide the claimant with a notice by mail to the last known address for the amount of recovery; and,
4. Prepare and forward a check representing the amount recovered to the requesting State as described in 004.E of this chapter.

006. Records of any and all of the preceding recovery requests, offsets, and payments shall be available for inspection by the claimant or designated representative.

007. The recovering State shall offset benefits payable under a State unemployment compensation program to recover any benefits overpaid under a Federal unemployment compensation program (as described in the Recovering State's Agreement with the Secretary of Labor) and vice versa, in the same manner as required under subsection 004 and 005 of this chapter, as appropriate, if the recovering State and requesting State have entered into an agreement with the U.S. Secretary of Labor to implement Section 303(g)(2) of the Social Security Act.

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