

Sec. 31-273-3. Recovery of non-fraud overpayments

(a) Except as provided in subsections (b) and (c) of this section, where the Administrator determines that any sum of benefits which was overpaid to an individual for reasons other than fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another should not be waived pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies, and such decision has become final, such overpayment shall be recouped by offset from any unemployment benefits subsequently payable to the individual in an amount equal to fifty percent of the individual's weekly benefit entitlement, rounded to the next lower whole dollar where such amount is not a whole dollar.

(b) Notwithstanding the provisions of subsection (a) of this section, during any weeks in which the Administrator has established that an "extended benefit period," as defined in Section 31-232b (a)(1) of the Connecticut General Statutes exists, the Administrator shall offset any overpayment to an individual which is not due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another from any unemployment benefits subsequently payable to the individual in an amount equal to fifty percent of the individual's weekly benefit entitlement, rounded to the next lower whole dollar where such amount is not a whole dollar.

(c) Notwithstanding the provisions of subsection (a) of this section, during any week in which an individual's weekly benefit amount, prior to offset for any other purpose, is less than one hundred dollars, the Administrator shall offset any overpayment which is not due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another from any unemployment benefits subsequently payable to the individual in an amount equal to twenty-five percent of the individual's weekly benefit entitlement, rounded to the next lower whole dollar where such amount is not a whole dollar.

(d) Any direct repayment by an individual of a portion of an overpayment under this section shall not preclude the Administrator from seeking the remaining portion of the overpayment as otherwise specified in this section.

(e) Whenever the Administrator determines that an individual has been overpaid benefits under this section because, as the result of a reduction in the individual's weekly benefit rate pursuant to Section 31-231a or 31-227(g) of the Connecticut General Statutes, the individual has already received a sum equal to or in excess of the individual's maximum limitation on total benefits, pursuant to Section 31-231b of the Connecticut General Statutes, the Administrator shall afford the individual the opportunity to:

- (1) waive the offset provisions of subsection (a), or (b) or (c) of this section, if applicable;
- (2) offset all benefits determined to be overpaid by fifty percent against the individual's overpayment; and

(3) Notwithstanding the provisions of subsection (a) of this section, during any week in which an individual's weekly benefit amount, prior to offset for any other purpose, is less than one hundred dollars, the Administrator shall offset any overpayment which is not due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by himself or through the agency of another from any unemployment benefits subsequently payable to the individual in an amount equal to twenty-five percent of the individual's weekly benefit entitlement, rounded to the next lower whole dollar where such amount is not a whole dollar.

Any portion of the individual's overpayment which is not offset in accordance with the provisions of this subsection shall be recouped by the Administrator from any unemployment benefits payable to the individual in any subsequent benefit year in accordance with the provisions of subsection (a), or (b) or (c) of this section, if applicable.

(f) Except as provided in subsection (e) of this section, whenever the Administrator determines that an individual has been overpaid benefits under this section because, as the result of an administrative determination or appellate decision reversing or modifying a prior award of benefits, the individual has already received a sum equal to or in excess of the individual's maximum limitation on total benefits pursuant to Section 31-231b of the Connecticut General Statutes, the Administrator shall afford the individual the opportunity to:

(1) waive the offset provision of subsection (a), or (b) or (c) of this section, if applicable;
(2) offset all benefits determined to be overpaid by fifty percent against the individual's overpayment; and

(3) Notwithstanding the provisions of subsection (a) of this section, during any week in which an individual's weekly benefit amount, prior to offset for any other purpose, is less than one hundred dollars, the Administrator shall offset any overpayment which is not due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another from any unemployment benefits subsequently payable to the individual in an amount equal to twenty-five percent of the individual's weekly benefit entitlement, rounded to the next lower whole dollar where such amount is not a whole dollar.

Any portion of the individual's overpayment which is not offset in accordance with the provisions of this subsection shall be recouped by the Administrator from any unemployment benefits payable to the individual in any subsequent benefit year in accordance with the provisions of subsection (a), or (b) or (c) of this section, if applicable.

(g) Where the offset of a determination of overpayment which was both made and became final on or after October 1, 1995 is insufficient to recoup the full amount of the overpayment, the Administrator shall establish a repayment schedule for the remaining amount. At the discretion of the Administrator, the repayment schedule may be modified or suspended as conditions warrant.

(h) If the individual fails to repay according to the repayment schedule established pursuant to subsection (g) of this section, the Administrator may make a finding of noncompliance. For purposes of this section, a "finding of noncompliance" means that, in the opinion of the Administrator, the individual is failing to make reasonable and acceptable efforts to adhere to the repayment schedule. In making a finding of noncompliance, the Administrator will specify the reasons for the determination and may consider any mitigating circumstances offered by the individual relating to the individual's ability to pay.

(i) Where the Administrator makes a finding of noncompliance as specified in subsection (h) of this section, the administrator may recover the overpayment through a wage execution against the individual's earnings and may request the Commissioner of Administrative Services to seek reimbursement for such amount pursuant to section 12-742 of the Connecticut General Statutes.

(j) Any finding of noncompliance made under this section may be enforced by a wage execution in the same manner as a judgment rendered in the superior court.

(k) Upon receipt of a repayment schedule established pursuant to subsection (g) of this section, or at any time during which an individual is subject to the terms of said repayment schedule, the individual may petition the Administrator for a modification or suspension of the repayment schedule. Such petition may be made orally or in writing and shall state the mitigating circumstances relating to the individual's ability to pay upon which the modification or suspension is requested.

(l) The Administrator shall, eight years after the payment of any benefits described in this section, cancel any claim for such repayment or recoupment which, in the Administrator's opinion, is uncollectible.

(Effective March 29, 1988; Amended July 1, 1996; Amended May 12, 2014)