

Regulations of Connecticut State Agencies

TITLE 31. Labor

Agency

Department of Labor

Subject

Collection of Overpayments of Unemployment Compensation Benefits

Inclusive Sections

§§ 31-273-1—31-273-9

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Collection of Overpayments of Unemployment Compensation Benefits

Sec. 31-273-1. Definitions

For purposes of sections 31-273-1 through 31-273-9 inclusive of these regulations, the following definitions apply:

(a) “Administrator” means the Labor Commissioner of the State of Connecticut, whose mailing address is 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, or his designated representative.

(b) “Benefits” means unemployment compensation payable to an individual with respect to his unemployment under Chapter 567 of the Connecticut General Statutes.

(c) “Benefit year” means the period commencing with the beginning of the week with respect to which an individual has filed a valid initiating claim and continuing through the Saturday of the fifty-first week following the week in which it commenced, provided no benefit year shall end until after the end of the third complete calendar quarter, plus the remainder of any uncompleted calendar week which began in such quarter, following the calendar quarter in which it commenced.

(d) “Repayment schedule” means a mandatory timetable established by the administrator whereby the individual on a monthly basis, or such other basis as the administrator determines appropriate, reduces his overpayment balance by the issuance of a check, money order or such other payment to the administrator as is deemed acceptable by the administrator until the account is paid in full.

(e) “Wage execution” means a process executed in accord with the provisions of Section 52-361a of the Connecticut General Statutes.

(f) “Weekly benefit amount” means an individual’s total unemployment benefit rate, as defined in Section 31-231a of the Connecticut General Statutes, plus any dependency allowance for which the individual has been determined eligible, pursuant to Section 31-234 of the Connecticut General Statutes, for a given week.

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

Sec. 31-273-2. Non-fraud overpayments: Notice, fact-finding and determination

(a) Where the Administrator determines that an individual has through error received any sum as benefits while any condition for the receipt of benefits imposed by Chapter 567 of the General Statutes was not fulfilled with respect to the individual’s claim, or that an individual has received a greater amount of benefits than was due such individual, such individual shall be charged with an overpayment of a sum equal to the amount so overpaid. The Administrator shall take such action unless the Administrator determines that repayment or recoupment would defeat the purpose of the benefits or be against equity and good conscience and should be waived pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies. The Administrator shall charge the individual with an overpayment only so long as such error has been discovered and brought to the individual’s attention within one year of the date of receipt of such benefits, except as provided in subsection (i) of this section.

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(b) Where the Administrator identifies a question of eligibility pursuant to Chapter 567 of the Connecticut General Statutes with respect to one or more weeks for which an individual was previously paid any sum of benefits, the Administrator shall give adequate notice to the individual that a fact-finding process will be held by the Administrator for the purpose of determining whether the individual was eligible for benefits for such week or weeks. Notification of the fact-finding process to the individual shall include:

(1) information necessary for the claimant to submit evidence or statements, in the manner prescribed by the Administrator;

(2) notification that such fact-finding will be conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies;

(3) identification of the question or questions of eligibility to be addressed during such fact finding;

(4) notice that a determination of ineligibility or non-entitlement for any week or weeks or part of any week or weeks will result in the charging of an overpayment to the individual, and that if the individual's receipt of such sum of benefits was not due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another, the individual shall also have the following issues considered during the same fact-finding:

(A) the exact amount of benefits overpaid to the individual;

(B) whether repayment or recoupment of such sum would defeat the purpose of the benefits or be against equity and good conscience and should be waived, pursuant to section 31-273-4 of the Regulations of Connecticut State Agencies; and

(C) if no waiver is made pursuant to subparagraph (B) of this subdivision, whether such overpaid benefits shall be recouped by offset from the individual's weekly unemployment benefits;

(5) notice to the individual that if the individual fails to participate in such fact-finding, the Administrator will proceed to adjudicate all issues identified in this section and make a determination with respect to those issues on the basis of the record available to the Administrator, by offset from the individual's weekly unemployment benefits, pursuant to subsection (c) of this section;

(6) notification that the examiner designated by the administrator may prescribe a hearing by telephone or in person at the examiner's discretion, or upon request by a claimant, which request may not be unreasonably denied by the examiner; and

(7) notice that the Administrator's determination or any portion thereof may be appealed to the Employment Security Appeals Division.

The fact-finding process held by the Administrator shall be conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies.

(c) Where the individual is determined to be ineligible for benefits as the result of fact-finding conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies or upon review of the available record, the Administrator shall issue a determination which contains the following information:

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- (1) the reason the individual was ineligible for or not entitled to benefits;
- (2) the week or weeks for which the individual was overpaid as the result of such ineligibility or non-entitlement;
- (3) the total amount of the overpayment;
- (4) whether such overpayment has been waived, pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies;
- (5) if not waived, the manner in which such sum shall be recouped by offset from the individual's weekly unemployment benefits pursuant to Section 31-273-3 of the Regulations of Connecticut State Agencies; and
- (6) the individual's statutory appeal rights.

However where, as the result of a fact-finding conducted pursuant to subsection (b) of this section, the Administrator determines that an individual has been overpaid benefits but that additional evidence is necessary to make a proper determination as to whether such overpayment should be waived, pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies, and that such evidence could be obtained by the individual within a reasonable period of time, the Administrator may issue a determination with respect to subdivisions (1), (2) and (3) of this subsection immediately, and issue a subsequent determination with respect to subdivisions (4) and (5) of this subsection after the individual has been afforded a reasonable opportunity to present any additional evidence to support the individual's request for waiver of the overpayment. In each determination, the Administrator shall afford the individual statutory appeal rights.

(d) Where the Administrator detects that an individual has been overpaid benefits as a result of a clerical or computational error in the processing of any weekly claim for benefits, the Administrator shall notify the individual that the individual has been charged with an overpayment of such benefits, the amount of the overpayment and that the individual has a right to a fact-finding process to be held by the Administrator to address:

- (1) whether or not the individual was overpaid benefits and the reasons therefor;
- (2) the exact amount of benefits overpaid to the individual;
- (3) whether repayment or recoupment of such sum would defeat the purpose of the benefits or be against equity and good conscience and should be waived, pursuant to section 31-273-4 of the Regulations of Connecticut State Agencies; and
- (4) if no waiver is made pursuant to subdivision (3) of this subsection, whether such overpaid benefits shall be recouped by offset from the individual's weekly unemployment benefits, pursuant to Section 31-273-3 of the Regulations of Connecticut State Agencies.

In addition, the Administrator shall notify the individual that if the individual does not exercise the individual's right to such fact-finding process within fourteen days of the date such notification was mailed, or if the individual waives in writing the individual's right to such fact-finding the Administrator shall issue a determination with respect to these issues on the basis of the record available to the Administrator, which may be appealed to the Employment Security Appeals Division. Where an individual exercises such individual's right to a fact-finding, the Administrator shall issue a formal notice containing the provisions

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outlined in subsection (b) of this section. The fact-finding shall be conducted in accordance with the provisions in Section 31-273-8 of the Regulations of Connecticut State Agencies. Where the Administrator concludes during the course of such fact-finding that an overpayment does not exist, those issues relating to overpayment in subdivisions (2), (3), and (4) of this subsection shall not be addressed in such fact-finding.

(e) Where an overpayment is found to exist as a result of the fact-finding or review of the available record referred to in subsection (d) of this section, the Administrator shall issue a determination which contains the following information:

- (1) the reason the individual was ineligible for or not entitled to benefits;
- (2) the week or weeks for which the individual was overpaid as the result of such ineligibility or non-entitlement;
- (3) the total amount of the overpayment;
- (4) whether such overpayment has been waived, pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies;
- (5) if not waived, the manner in which such sum shall be recouped by offset from the individual's weekly unemployment benefits pursuant to Section 31-273-3 of the Regulations of Connecticut State Agencies; and
- (6) the individual's statutory appeal rights.

(f) Where the Administrator determines that an individual has been overpaid benefits as the result of a decision by an Appeals Referee, the Board of Review or any state or federal court which reverses a prior decision and which has become final, or as the result of a redetermination of the individual's weekly benefit amount which has become final, the Administrator shall notify the individual that such individual has been charged with an overpayment of such benefits and that the individual has the right to a fact-finding by the Administrator which will consider the following issues only:

- (1) determination of the exact amount of benefits overpaid to the individual as a result of such decision;
- (2) whether repayment or recoupment of such sum would defeat the purpose of the benefits or be against equity and good conscience and should be waived, pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies;
- (3) if no waiver is made pursuant to subdivision (2) of this subsection, whether such overpaid benefits shall be recouped by offset from the individual's weekly unemployment benefits pursuant to Section 31-273-3 of the Regulations of Connecticut State Agencies. In addition, the Administrator shall notify the individual that if such individual does not exercise the individual's right to such fact-finding within fourteen days of the date such notification was mailed, or if the individual waives in writing such individual's right to such fact-finding, the Administrator will issue a determination with respect to the issues identified in subdivisions (1), (2), and (3) of this subsection on the basis of the record available to the Administrator, which may be appealed to the Employment Security Appeals Division.

(g) Where an individual exercises such individual's right to a fact-finding, pursuant to subsection (f) of this section, the Administrator shall issue a notification of fact-finding

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which includes:

(1) information necessary for the claimant to submit evidence or statements, in a manner prescribed by the Administrator;

(2) notification that such fact-finding shall be conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies;

(3) identification of the issues to be addressed during such fact-finding, as described in subsection (f) of this section;

(4) notice to the individual that if the individual fails to participate in such fact-finding, the Administrator will proceed to adjudicate all issues identified in this section and make a determination with respect to those issues on the basis of the record available to the Administrator; and

(5) whether the conducting of an in-person or telephonic hearing is deemed necessary by the Administrator or the Administrator's representative for purposes of the fact-finding.

The fact-finding held by the Administrator shall be conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies.

(h) Following any fact-finding or review of the available record by the Administrator pursuant to subsection (g) of this section, the Administrator shall issue a determination to the individual which contains the following information:

(1) the exact amount of benefits overpaid to the individual and the weeks for which the individual was overpaid;

(2) whether such overpayment has been waived, pursuant to Section 31-273-4 of the Regulations of Connecticut State Agencies;

(3) if not waived, the manner in which such sum shall be recouped by offset from the individual's weekly unemployment benefits pursuant to Section 31-273-3 of the Regulations of Connecticut State Agencies; and

(4) where no waiver has been made, the individual's statutory appeal rights.

(i) The requirement that error be discovered and brought to the attention of the individual within one year of the date of receipt of benefits, imposed by subsection (a) of this section shall not apply to any overpayment resulting from a decision which was appealed and did not become final within such time limitations. In such cases, overpayment resulting from such error shall be discovered and brought to the attention of the individual within one year from the date upon which the controlling decision became final.

(Effective March 29, 1988; Amended July 1, 1996; Amended May 12, 2014; Amended November 5, 2020)

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

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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

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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.

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(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)

Sec. 31-273-4. Waiver

(a) The Administrator shall determine that repayment or recoupment of any benefits found to be overpaid pursuant to Section 31-273-2 of the Regulations of Connecticut State Agencies would defeat the purpose of the benefits or would be against equity and good conscience and shall be waived only if the individual did not receive such benefits by reason of fraud, wilful misrepresentation or wilful nondisclosure by the individual or through the agency of another of a material fact, and one of the following conditions exists:

(1) it has been established by evidence or statements, that the individual's prospects for securing full-time employment are severely limited as a result of physical or mental disability, poor health or any other circumstances which would be detrimental to the individual's employability; or

(2) the benefits were overpaid to the individual as a result of retrospective application of a legislative change; or

(3) the benefits were overpaid as a direct result of gross administrative error; or

(4) the benefits were overpaid as the result of a decision by an Appeals Referee, the Employment Security Board of Review or any court of law reversing a prior decision, and adequate notice was not given to the individual that the individual would be required to repay benefits in the event of any reversal upon appeal; or

(5) it has been established by evidence or statements, that the individual substantially, detrimentally and irreversibly changed such individual's position in reliance upon the receipt of unemployment compensation by foregoing receipt of any public welfare benefits for which the individual would have been entitled but for the receipt of such unemployment compensation; or

(6) the individual—

(A) has been overpaid benefits in an amount equal to or greater than two times the individual's weekly benefit amount at the time the overpayment was made; and

(B) the individual's annualized family income, as determined under subsection (c) of this section, does not exceed one hundred and fifty percent of the poverty level, most recently published in the Federal Register by the United States Department of Commerce, Census Bureau, which corresponds to the size of the individual's family unit; or

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(7) the individual is deceased; or

(8) the benefits were overpaid as a direct result of an employer's failure to respond timely or adequately to a request of the Administrator for information relating to the individual's claim for unemployment compensation benefits in a manner prescribed by the Administrator.

(b) For the purposes of this section, "gross administrative error" may be found only where it is clear that a reasonable examiner, adjudicator or trier of fact in the same circumstances and presented with the same facts would not have made the same determination or taken the same action, or the Employment Security Division has failed to discharge its responsibilities so as to deprive the individual of substantial due process of law. Reversal or modification of any determination upon appeal shall not, by itself, constitute grounds for finding gross administrative error.

Gross administrative error by the Administrator may be found only where the individual was not aware and reasonably would not have been aware of such error, so that reliance could not justifiably have been placed upon a determination resulting from such error.

Gross administrative error by the Employment Security Appeals Division may be found only upon a specific finding by the Employment Security Board of Review that an individual was overpaid benefits as a direct result of a decision by the Appeals Division which constitutes gross administrative error within the meaning of this subsection. The Employment Security Board of Review may determine whether an overpayment directly resulted from gross administrative error by the Appeals Division either:

(1) upon appeal of the Referee's decision by any party to the Board of Review; or

(2) upon direct certification of the question of gross administrative error to the Board of Review by the Administrator, or an Appeals Referee in any subsequent proceeding.

(c) In order to determine an individual's "annualized family income" pursuant to subparagraph (B) of subdivision (6) of subsection (a) of this section, the Administrator shall:

(1) determine the total gross income of the individual and the individual's spouse, including cash contributions of any other family member to the individual's household, during the six months prior to the fact-finding held under Section 31-273-2 of the Regulations of Connecticut State Agencies to determine whether the individual's overpayment should be waived, excluding any unemployment compensation which has been determined to be overpaid; and

(2) multiply such total income by two; and

(3) deduct any extraordinary medical expenses for which the individual is responsible but which are not covered by a health insurance plan.

(d) In order to determine whether an overpayment of benefits shall be waived pursuant to subdivision (6) of subsection (a) of this section, the Administrator may require the individual to present any financial records, pay stubs, federal income tax returns, or other data deemed necessary for such determination. The Administrator may require the individual to provide such individual's spouse's social security number for the purpose of verifying the spouse's income.

(e) The Administrator shall publish annually tables which set forth income levels equal to one hundred and fifty percent of the poverty level, most recently published by the United States Department of Commerce, Census Bureau, in relation to family size. Such tables shall be utilized in making all determinations pursuant to subdivision (6) of subsection (a) of this section. Copies of such tables may be obtained by any individual, upon request, at any office of the Connecticut Labor Department, Employment Security Division.

(Effective March 29, 1988; Amended May 12, 2013; Amended November 5, 2020)

Sec. 31-273-5. Fraud overpayments: Notice, fact-finding and determination

(a) Where the Administrator determines that any individual has, by reason of fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another, received as benefits of any dollar amount while any condition imposed by Chapter 567 of the Connecticut General Statutes was not fulfilled, or has received any amount more than was due the individual, such individual shall be charged with an overpayment of a sum equal to the amount so overpaid to the individual and shall be liable to repay to the Administrator such sum as well as any other penalties assessed by the Administrator in accordance with the provisions of section 31-273-6a of the Regulations of Connecticut State Agencies.

(b) If any individual charged by the Administrator with an overpayment, pursuant to subsection (a) of this section, does not make repayment in full of the sum overpaid, the Administrator shall recoup such sum as specified in Section 31-273-7 of the Regulations of Connecticut State Agencies.

(c) 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.

(d) Where the Administrator identifies a question of eligibility pursuant to Chapter 567 of the Connecticut General Statutes with respect to one or more weeks for which an individual was previously paid any sum of benefits or detects that an individual received more benefits than that to which such individual was entitled, and reasonably believes on the basis of available evidence that such receipt of benefits was due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another, the Administrator shall notify the individual in writing of the identification of such question and that the individual has a right to a fact-finding process to be held by the Administrator for the purpose of determining whether the individual was eligible for benefits for such week or weeks, and whether any benefits were received fraudulently. The notice shall inform the individual that if such individual does not exercise such right by notifying the Administrator within fourteen days of the date the notice was mailed, a decision will be rendered on the basis of the record available to the Administrator which may be appealed to the Employment Security Appeals Division. In addition, such notice shall advise the individual that an adverse determination will result in the imposition of an administrative penalty pursuant to section 31-273-6a of the Regulations of Connecticut

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State Agencies and may result in recoupment methods conducted pursuant to the provisions of Section 31-273-7 of the Regulations of Connecticut State Agencies.

If the individual exercises such individual's right to a fact-finding, the Administrator shall give the individual adequate notice that a fact-finding process will be held.

Notification of the fact-finding process shall include:

(1) information necessary for the claimant to submit evidence or statements, in the manner prescribed by the Administrator;

(2) notification that the fact-finding will be conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies.

(3) identification of the question or questions of eligibility to be addressed during such fact-finding;

(4) notice that a determination of ineligibility or non-entitlement for any week or weeks or part of any week or weeks will result in the charging of an overpayment to the individual;

(5) notice that if, following consideration of any question of eligibility or entitlement, there exists the possibility that the individual was overpaid benefits and the individual's receipt of such sum of benefits was due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by such individual or through the agency of another, the individual shall also have the following issues considered during the same fact-finding:

(A) the exact amount of benefits overpaid to the individual, and

(B) whether or not the individual's receipt of such sum was due to fraud, wilful misrepresentation or wilful nondisclosure of a material fact by such individual or through the agency of another for the purpose of obtaining benefits;

(6) notice that a finding of fraud, wilful misrepresentation or wilful nondisclosure pursuant to subdivision (5)(A) of this subsection can result in the imposition of an additional administrative penalty in accordance with section 31-273-6a of the Regulations of Connecticut State Agencies;

(7) notice to the individual that if the individual fails to participate in such fact-finding and a determination of ineligibility or non-entitlement is made, the Administrator will proceed to adjudicate the issues identified in subdivision (7) of this subsection and make a determination with respect to those issues on the basis of the record available to the Administrator.

The fact-finding process held by the Administrator shall be conducted in accordance with the provisions of Section 31-273-8 of the Regulations of Connecticut State Agencies; and

(8) notification that the examiner designated by the Administrator may prescribe a hearing by telephone or in person at the examiner's discretion, or upon request by a claimant, which request may not be unreasonably denied by the examiner.

(e) Where the individual is determined to be ineligible for benefits and overpaid as a result of fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another following a hearing described in subsection (d), the Administrator shall issue a determination which contains the following information:

(1) the reason the individual was ineligible for or not entitled to benefits;

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(2) the week or weeks for which the individual was overpaid as the result of such ineligibility or non-entitlement;

(3) the total amount of the overpayment;

(4) an administrative determination that the individual was overpaid because the individual, by such individual's own act of commission or omission or through the agency of another knowingly committed fraud, misrepresented a material fact or failed to disclose a material fact for the purpose of obtaining benefits;

(5) notice that such overpaid sum shall be repaid in full directly to the Administrator, and that if such sum is not repaid in full, it shall be recouped pursuant to the provisions of Section 31-273-7 of the Regulations of Connecticut State Agencies;

(6) the administrative penalty to be imposed, pursuant to section 31-273-6a of the Regulations of Connecticut State Agencies; and

(7) the individual's statutory appeal rights.

(f) Where an individual is determined to be ineligible for benefits but overpaid benefits for reasons other than fraud, wilful misrepresentation or wilful nondisclosure by such individual or through the agency of another as the result of the fact-finding described in subsection (d) of this section, the Administrator shall notify the individual that the individual has the right to a fact-finding in accordance with the provisions of subsection (d) of Section 31-273-2 of the Regulations of Connecticut State Agencies, which may, at the individual's option, be conducted immediately or within five business days.

(Effective March 29, 1988; Amended July 1, 1996; Amended May 12, 2014; Amended November 5, 2020)

Sec. 31-273-6. Administrative penalty for overpayments established prior to October 1, 2013

(a) Whenever the Administrator determines, prior to October 1, 2013, pursuant to Section 31-273-5(e) of the Regulations of Connecticut State Agencies, that any individual has himself or herself or through the agency of another made a claim for benefits and knowingly made a false statement or representation or knowingly failed to disclose a material fact in order to obtain benefits or to increase the amount of benefits to which such individual may be entitled, such individual shall forfeit benefits for not less than one nor more than thirty-nine compensable weeks following determination of such offense or offenses, during which weeks the individual would otherwise have been eligible to receive benefits. For the purposes of Section 31-231b of the Connecticut General Statutes, such person shall be deemed to have received benefits for such forfeited weeks.

(b) Except as provided in subsections (d) and (e) of this section, the number of weeks of benefits to be forfeited shall be the lesser of:

(1) the number of weeks of benefits fraudulently claimed multiplied by one, up to a maximum of thirty-nine; or

(2) that number of weeks which corresponds to the total dollar amount fraudulently claimed on the Administrative Penalty Table in subsection (c) of this section.

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(c) The Administrator shall apply the following Administrative Penalty Table in determining the number of penalty weeks to be forfeited, pursuant to subsection (b) of this section:

Dollars Overpaid	Number of Weeks Forfeited	Dollars Overpaid	Number of Weeks Forfeited
1 - 499	1	10,000 - 10,499	21
500 - 999	2	10,500 - 10,999	22
1,000 - 1,499	3	11,000 - 11,499	23
1,500 - 1,999	4	11,500 - 11,999	24
2,000 - 2,499	5	12,000 - 12,499	25
2,500 - 2,999	6	12,500 - 12,999	26
3,000 - 3,499	7	13,000 - 13,499	27
3,500 - 3,999	8	13,500 - 13,999	28
4,000 - 4,499	9	14,000 - 14,999	29
4,500 - 4,999	10	14,500 - 14,999	30
5,000 - 5,499	11	15,000 - 15,499	31
5,500 - 5,999	12	15,000 - 15,999	32
6,000 - 6,499	13	16,000 - 16,499	33
6,500 - 6,999	14	16,500 - 16,999	34
7,000 - 7,499	15	17,000 - 17,499	35
7,500 - 7,999	16	17,500 - 17,999	36
8,000 - 8,499	17	18,000 - 18,499	37
8,500 - 8,999	18	18,500 - 18,999	38
9,000 - 9,499	19	19,000 & over	39
9,500 - 9,999	20		

(d) Notwithstanding the provisions of subsection (b) of this section, where an individual increases or attempts to increase the dollar amount of a benefit check issued by the Administrator, the Administrator shall impose a penalty of two weeks of forfeited benefits for each check which the individual has increased or attempted to increase.

(e) Notwithstanding the provisions of subsection (b) of this section, where an individual's failure to report earnings for a week or weeks in which the individual received benefits has resulted in an administrative determination pursuant to Section 31-273-5(e) of the Regulations of Connecticut State Agencies, and the individual has also been overpaid for a subsequent week or weeks as a result of a retroactive denial of benefits because such individual's separation from such unreported employment was for a disqualifying reason, the Administrator shall impose a penalty of two weeks of forfeited benefits in addition to any penalty imposed as a result of the earnings the individual failed to report, provided the Administrator finds that the individual knowingly failed to disclose such separation for the purpose of obtaining benefits.

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(f) Where the Administrator has found that an individual has committed an offense, as defined in subsection (i) of this section, and

(1) that the individual committed one prior offense, the Administrator shall impose an extra penalty of five forfeited weeks of benefits in addition to any other penalty imposed pursuant to this section; or

(2) that the individual has committed two prior offenses, the Administrator shall impose an extra penalty of ten forfeited weeks of benefits, in addition to any other penalty imposed pursuant to this section; or

(3) that the individual has committed three prior offenses, the Administrator shall impose a maximum penalty of thirty-nine forfeited weeks of benefits.

(g) The Administrator shall not consider any restitution by the individual of benefits overpaid in determining the number of weeks of benefits to be forfeited pursuant to this section.

(h) Any penalty imposed pursuant to this section shall remain in full force and effect until such time as said penalty has been satisfied in full, as determined by the Administrator.

(i) For the purposes of this section, an offense is a single week or a series of weeks within a given time period with respect to which the Administrator has established that an individual has made a claim for benefits and has, himself or herself or through the agency of another, made a false statement or representation or has knowingly failed to disclose a material fact for the purpose of obtaining benefits or increasing the amount of benefits to which such individual may be entitled.

(Effective March 29, 1988; Amended July 1, 1996; Amended June 12, 2006; Amended May 12, 2014)

Sec. 31-273-6a. Administrative penalty for overpayments established on or after October 1, 2013

(a) For any determination of an overpayment made on or after October 1, 2013, whenever the Administrator determines, pursuant to Section 31-273-5(e) of the Regulations of Connecticut State Agencies, that any individual has, himself or herself or through the agency of another, made a claim for benefits and knowingly made a false statement or representation or knowingly failed to disclose a material fact in order to obtain benefits or to increase the amount of benefits to which the individual may be entitled, such individual shall be subject to a penalty of fifty (50) percent of the amount of overpayment for the first offense and a penalty of one hundred (100) percent of the amount of overpayment if any subsequent offense, regardless of whether the overpayment was established prior to October 1, 2013 or on or subsequent to October 1, 2013. This penalty shall be in addition to the liability to repay the full amount of overpayment and shall not be confined to a single benefit year. The penalty amounts computed in this subsection shall be rounded to the nearest dollar with fractions of a dollar of exactly fifty cents rounded upward.

(b) The Administrator shall not consider any restitution by the individual of benefits overpaid in determining the amount of the penalty to be imposed pursuant to this section.

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(c) Any penalty imposed pursuant to this section shall remain in full force and effect until such time as said penalty has been satisfied in full, as determined by the Administrator.

(d) For the purposes of this section, an offense is a single week or a series of weeks within a given time period with respect to which the Administrator has established that an individual has made a claim for benefits and has, himself or herself or through the agency of another, made a false statement or representation or has knowingly failed to disclose a material fact for the purpose of obtaining benefits or increasing the amount of benefits to which such individual may be entitled.

(Effective May 12, 2014)

Sec. 31-273-7. Fraud overpayment recovery

(a) Where the Administrator determines that an individual has been overpaid as the result of fraud, wilful misrepresentation or wilful nondisclosure by himself or herself or through the agency of another of a material fact, pursuant to Section 31-273-5(e) of the Regulations of Connecticut State Agencies, any resultant determination that the individual is liable for repayment, recoupment by one hundred percent offset from benefits, or any administrative penalty imposed pursuant to sections 31-273-6 and 31-273-6a of the Regulations of Connecticut State Agencies shall be effective upon issuance.

(b) At any time where the Administrator makes a determination of overpayment pursuant to subsection (a) of this section, the Administrator may request the Commissioner of Administrative Services to intercept the individual's State Income Tax refund, if any, pursuant to section 12-742 of the Connecticut General Statutes.

(c) (1) Notwithstanding the provisions of subsections (a) and (b) of this section, where the offset of an overpayment made 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.

(2) For any determination of an overpayment made on or after July 1, 2005, the repayment schedule shall impose interest at a rate of one percent of the amount overpaid per month.

(d) If the individual fails to repay according to the repayment schedule established pursuant to subsection (c) of this section and the overpayment has become final, 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 claimant is failing to make reasonable and acceptable efforts to adhere to the repayment schedule. In making a finding of noncompliance, the Administrator shall specify the reasons for the determination and may consider any mitigating circumstances offered by the individual relating to such individual's ability to pay.

(e) Where the Administrator makes a finding of noncompliance as specified in subsection (d) of this section, the Administrator may recover (1) for any overpayment established prior to October 1, 2013, the overpayment, plus interest and, (2) for overpayments established

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on or after October 1, 2013, the overpayment, plus interest, and any administrative penalty assessed pursuant to section 31-273-6a of the Regulations of Connecticut State Agencies, through a wage execution against the individual's earnings, or an execution against the individual's assets, or through any other enforcement permitted by law, including the submission of the outstanding balance to the Internal Revenue Service for the purpose of offsetting the claimant's federal tax refund pursuant section 31-273 of the Connecticut General Statutes and applicable federal laws.

(f) Upon receipt of a repayment schedule established pursuant to subsection (c) 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.

(g) 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.

(h) If the Administrator's finding that the overpayment resulted from fraud, wilful misrepresentation or wilful nondisclosure of a material fact by the individual or through the agency of another is reversed or modified upon appeal by an Appeals Referee, the Employment Security Board of Review or any court of law, the Administrator shall, upon issuance of such decision, relieve the individual of such liability or penalty to the extent provided by such decision. Such relief shall include refund of any benefits, plus interest, recouped in reliance upon the prior decision.

(Effective March 29, 1988; Amended July 1, 1996; Amended June 12, 2006; Amended May 12, 2014)

Sec. 31-273-8. Fact-finding process

(a) In any fact-finding process conducted pursuant to Section 31-273-2 or Section 31-273-5 of the Regulations of Connecticut State Agencies, each party shall be afforded, subject to the Administrator's control:

- (1) The right to be represented by any person, including an attorney;
- (2) The right to inspect or copy any documents in the Administrator's file which are material to the subject matter of the fact-finding and not exempt from disclosure by law;
- (3) The right to present evidence, documents and witness statements; and
- (4) If a hearing is deemed necessary by the Administrator or the Administrator's representative for purposes of the fact-finding, the right to cross-examine witnesses and parties, so long as the Administrator deems such cross-examination to be material and relevant.

(b) The Administrator shall conduct and control any hearing held pursuant to Section 31-273-2 or Section 31-273-5 of the Regulations of Connecticut State Agencies informally and shall not be bound by the ordinary common law or statutory rules of evidence or

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procedure. During the fact-finding process, the Administrator shall make inquiry in such manner and take any action consistent with the impartial discharge of the Administrator's duties, as is best calculated to ascertain the relevant facts and the substantial rights of the parties and render a proper and complete determination. The Administrator may at any time examine or cross-examine any party or witness, and require such evidence as the Administrator determines to be necessary for a proper and complete determination. The Administrator shall determine the order for presentation of evidence and may exclude statements and evidence which he determines to be incompetent, irrelevant, unduly repetitious, or otherwise improper. The Administrator shall, as the Administrator deems necessary in the interests of justice, advise any party as to the party's rights, aid the party in examining and cross-examining witnesses, help the party in presenting evidence and otherwise render such assistance as is compatible with the impartial discharge of the Administrator's duties.

(c) In any case involving an individual claiming benefits on an interstate basis, the Administrator shall attempt to conduct any fact-finding in accordance with Section 31-273-2 or Section 31-273-5 of the Regulations of Connecticut State Agencies. To the extent practicable, such fact-finding shall be conducted in accordance with the procedures set forth in subsections (a), (b), and (c) of this section. The Administrator shall take any action consistent with the impartial discharge of the Administrator's duties as is best calculated to ascertain the relevant facts and substantive rights of the parties, furnish a fair and expeditious examination of the relevant issues, and render a proper and complete decision.

(Effective March 29, 1988; Amended July 1, 1996; Amended November 5, 2020)

Sec. 31-273-9. Employer fraud: contested case hearing

(a) If, after investigation, the Administrator determines that there is probable cause to believe that a person, firm or corporation has wilfully failed to declare payment of wages in a payroll record, pursuant to section 31-273(d) of the Connecticut General Statutes, the Administrator shall provide an opportunity for hearing.

(b) (1) If the person, firm or corporation requests a hearing, it shall be conducted pursuant to the rules of procedure for hearings in contested cases to be conducted by the Labor Commissioner as provided in Sections 31-1-1 through 31-1-9, inclusive, of the Regulations of Connecticut State Agencies.

(2) Notice of the time, place, reason for such hearing and right of representation shall be provided to the person, firm or corporation requesting the hearing.

(c) (1) After the hearing, or after opportunity for hearing has been provided and no such hearing has been requested, the Administrator shall issue his final decision. Where, in his final decision, the Administrator determines that such nondeclaration occurred and was wilful, he shall fix the payments and penalties in accordance with the provisions of Section 31-273(e) of the Connecticut General Statutes.

(2) The Administrator may impose a penalty of ten(10) percent of the total contributions past due to the Administrator, as determined pursuant to Section 31-270. Such penalty shall

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be in addition to any other applicable penalty and interest under Section 31-266. In addition, the Administrator may require the person, firm or corporation to make contributions at the maximum rate provided in Section 31-225a for a period of one year following the determination by the Administrator concerning the wilful nondeclaration. If the person, firm or corporation is paying or should have been paying, the maximum rate at the time of the determination, the Administrator may require that such maximum rate continue for a period of three years following the determination.

(Adopted effective July 1, 1996)