

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.

(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:

- (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 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 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)