
HOUSE BILL 1780

State of Washington 54th Legislature 1995 Regular Session

By Representatives Lisk and Romero

Read first time 02/08/95. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to mailing notices by certified mail; and amending
2 RCW 50.20.190.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 50.20.190 and 1993 c 483 s 13 are each amended to read
5 as follows:

6 (1) An individual who is paid any amount as benefits under this
7 title to which he or she is not entitled shall, unless otherwise
8 relieved pursuant to this section, be liable for repayment of the
9 amount overpaid. The department shall issue an overpayment assessment
10 setting forth the reasons for and the amount of the overpayment. The
11 amount assessed, to the extent not collected, may be deducted from any
12 future benefits payable to the individual(~~(:—PROVIDED, That))~~).
13 However, in the absence of fraud, misrepresentation, or willful
14 nondisclosure, every determination of liability shall be mailed by
15 certified mail return receipt requested or personally served not later
16 than two years after the close of the individual's benefit year in
17 which the purported overpayment was made unless the merits of the claim
18 are subjected to administrative or judicial review in which event the
19 period for serving the determination of liability shall be extended to

1 allow service of the determination of liability during the six-month
2 period following the final decision affecting the claim.

3 (2) The commissioner may waive an overpayment if the commissioner
4 finds that ~~((said))~~ the overpayment was not the result of fraud,
5 misrepresentation, willful nondisclosure, or fault attributable to the
6 individual and that the recovery ~~((thereof))~~ of the overpayment would
7 be against equity and good conscience~~((:—PROVIDED, HOWEVER, That))~~.
8 However, the overpayment so waived shall be charged against the
9 individual's applicable entitlement for the eligibility period
10 containing the weeks to which the overpayment was attributed as though
11 such benefits had been properly paid.

12 (3) Any assessment ~~((herein provided))~~ issued under this section
13 shall constitute a determination of liability from which an appeal may
14 be had in the same manner and to the same extent as provided for
15 appeals relating to determinations in respect to claims for benefits~~((:—~~
16 ~~PROVIDED, That))~~. However, an appeal from any determination covering
17 overpayment only shall be deemed to be an appeal from the determination
18 which was the basis for establishing the overpayment unless the merits
19 involved in the issue set forth in such determination have already been
20 heard and passed upon by the appeal tribunal. If no ~~((such))~~ appeal is
21 taken to the appeal tribunal by the individual within thirty days of
22 the ~~((delivery))~~ service of the notice of determination of liability,
23 or within thirty days of the mailing of the notice of determination,
24 whichever is the earlier, ~~((said))~~ the determination of liability shall
25 be deemed conclusive and final. Whenever any ~~((such))~~ notice of
26 determination of liability becomes conclusive and final, the
27 commissioner, upon giving at least twenty days notice by certified mail
28 return receipt requested to the individual's last known address of the
29 intended action, may file with the superior court clerk of any county
30 within the state a warrant in the amount of the notice of determination
31 of liability plus a filing fee of five dollars. The clerk of the
32 county where the warrant is filed shall immediately designate a
33 superior court cause number for the warrant, and the clerk shall cause
34 to be entered in the judgment docket under the superior court cause
35 number assigned to the warrant, the name of the person(s) mentioned in
36 the warrant, the amount of the notice of determination of liability,
37 and the date when the warrant was filed. The amount of the warrant as
38 docketed shall become a lien upon the title to, and any interest in,
39 all real and personal property of the person(s) against whom the

1 warrant is issued, the same as a judgment in a civil case duly docketed
2 in the office of such clerk. A warrant so docketed shall be sufficient
3 to support the issuance of writs of execution and writs of garnishment
4 in favor of the state in the manner provided by law for a civil
5 judgment. A copy of the warrant shall be mailed to the person(s)
6 mentioned in the warrant by certified mail return receipt requested to
7 the person's last known address within five days of its filing with the
8 clerk.

9 (4) On request of any agency which administers an employment
10 security law of another state, the United States, or a foreign
11 government and which has found in accordance with the provisions of
12 such law that a claimant is liable to repay benefits received under
13 such law, the commissioner may collect the amount of such benefits from
14 the claimant to be refunded to the agency. In any case in which under
15 this section a claimant is liable to repay any amount to the agency of
16 another state, the United States, or a foreign government, such amounts
17 may be collected without interest by civil action in the name of the
18 commissioner acting as agent for such agency if the other state, the
19 United States, or the foreign government extends such collection rights
20 to the employment security department of the state of Washington, and
21 provided that the court costs be paid by the governmental agency
22 benefiting from such collection.

23 (5) Any employer who is a party to a back pay award or settlement
24 due to loss of wages shall, within thirty days of the award or
25 settlement, report to the department the amount of the award or
26 settlement, the name and social security number of the recipient of the
27 award or settlement, and the period for which it is awarded. When an
28 individual has been awarded or receives back pay, for benefit purposes
29 the amount of the back pay shall constitute wages paid in the period
30 for which it was awarded. For contribution purposes, the back pay
31 award or settlement shall constitute wages paid in the period in which
32 it was actually paid. The following requirements shall also apply:

33 (a) The employer shall reduce the amount of the back pay award or
34 settlement by an amount determined by the department based upon the
35 amount of unemployment benefits received by the recipient of the award
36 or settlement during the period for which the back pay award or
37 settlement was awarded;

1 (b) The employer shall pay to the unemployment compensation fund,
2 in a manner specified by the commissioner, an amount equal to the
3 amount of such reduction;

4 (c) The employer shall also pay to the department any taxes due for
5 unemployment insurance purposes on the entire amount of the back pay
6 award or settlement notwithstanding any reduction made pursuant to (a)
7 of this subsection;

8 (d) If the employer fails to reduce the amount of the back pay
9 award or settlement as required in (a) of this subsection, the
10 department shall issue an overpayment assessment against the recipient
11 of the award or settlement in the amount that the back pay award or
12 settlement should have been reduced; and

13 (e) If the employer fails to pay to the department an amount equal
14 to the reduction as required in (b) of this subsection, the department
15 shall issue an assessment of liability against the employer which shall
16 be collected pursuant to the procedures for collection of assessments
17 provided (~~herein~~) in this section and in RCW 50.24.110.

18 (6) When an individual fails to repay an overpayment assessment
19 that is due and fails to arrange for satisfactory repayment terms, the
20 commissioner shall impose an interest penalty of one percent per month
21 of the outstanding balance. Interest shall accrue immediately on
22 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
23 when the assessment becomes final. For any other overpayment, interest
24 shall accrue when the individual has missed two or more of (~~their~~)
25 his or her monthly payments either partially or in full. The interest
26 penalty shall be used to fund detection and recovery of overpayment and
27 collection activities.

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