

IC 22-4-13

Chapter 13. Improper Payments

IC 22-4-13-1

Overpayment; fraud; mistake; collection

Sec. 1. (a) Whenever an individual receives benefits or extended benefits to which the individual is not entitled under:

(1) this article; or

(2) the unemployment insurance law of the United States;

the department shall establish that an overpayment has occurred and establish the amount of the overpayment.

(b) An individual described in subsection (a) is liable to repay the established amount of the overpayment.

(c) Any individual who knowingly:

(1) makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false; or

(2) fails, or causes another to fail, to disclose a material fact; and

as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount, with interest at the rate of one-half percent (0.5%) per month, to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the six (6) year period following the later of the date the department establishes that an overpayment has occurred or the date that the determination of an overpayment becomes final following the exhaustion of all appeals.

(d) Any individual who, for any reason other than misrepresentation or nondisclosure as specified in subsection (c), has received any amount as benefits to which the individual is not entitled under this article or because of the subsequent receipt of income deductible from benefits which is allocable to the week or weeks for which such benefits were paid becomes not entitled to such benefits under this article shall be liable to repay such amount to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the three (3) year period following the later of the date the department establishes that the overpayment occurred or the date that the determination that an overpayment occurred becomes final following the exhaustion of all appeals.

(e) When benefits are paid to an individual who was eligible or qualified to receive such payments, but when such payments are made because of the failure of representatives or employees of the department to transmit or communicate to such individual notice of suitable work offered, through the department, to such individual by an employing unit, then and in such cases, the individual shall not be required to repay or refund amounts so received, but such payments shall be deemed to be benefits improperly paid.

(f) Where it is finally determined by a deputy, an administrative

law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the department shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

(g) Where any individual is liable to repay any amount to the department for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest, except as otherwise provided in subsection (c), by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this article.

(h) Liability for repayment of benefits paid to an individual (other than an individual employed by an employer electing to make payments in lieu of contributions) for any week may be waived upon the request of the individual if:

(1) the benefits were received by the individual without fault of the individual;

(2) the benefits were the result of payments made:

(A) during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; or

(B) because of an error by the employer or the department; and

(3) repayment would cause economic hardship to the individual.

(Formerly: Acts 1947, c.208, s.1301; Acts 1953, c.177, s.13; Acts 1957, c.129, s.1; Acts 1971, P.L.355, SEC.28; Acts 1973, P.L.239, SEC.4.) As amended by Acts 1979, P.L.229, SEC.2; P.L.228-1983, SEC.3; P.L.18-1987, SEC.40; P.L.135-1990, SEC.2; P.L.21-1995, SEC.77; P.L.290-2001, SEC.6; P.L.108-2006, SEC.23.

IC 22-4-13-1.1

Forfeiture of benefits or wage credits; civil penalties

Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

(1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit

period; or

(2) fails to disclose or has falsified any fact;

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.

(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.

(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under IC 22-4-17-2(1) and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

As added by P.L.108-2006, SEC.24. Amended by P.L.175-2009, SEC.18.

IC 22-4-13-2

Repealed

(Repealed by P.L.129-1984, SEC.4.)

IC 22-4-13-3

Overpayments due to retroactive labor awards; offset and remission

Sec. 3. If an overpayment of benefits is created by a retroactive payment by the employer for:

(1) awards by the National Labor Relations Board of additional pay, backpay, or for loss of employment;

(2) any payments made under an agreement entered into by an employer, either a union or an employee, and the National Labor Relations Board; or

(3) payments to an employee by an employing unit made pursuant to the terms and provisions of the Fair Labor Standards Act;

and the employer offsets all or part of the overpaid benefits against the award, the employer shall remit the amount offset to the division.

As added by P.L.20-1986, SEC.8.

IC 22-4-13-4

Repayment of overpayment amounts

Sec. 4. (a) This section applies to an individual:

- (1) for whom the department has established an overpayment by a final written determination under section 1(a) or 1(b) of this chapter; and
- (2) whose overpayment amount that is due and payable equals or exceeds:
 - (A) the individual's weekly benefit amount; multiplied by
 - (B) four (4).

(b) Notwithstanding any other law and subject to subsection (c), an individual is entitled to repay the established amount of an overpayment over a period:

- (1) beginning on the date the determination of the amount of the overpayment is final; and
- (2) ending on a date not later than the date occurring thirty-six (36) months after the date specified in subdivision (1).

(c) An individual to whom this section applies may repay an overpayment over time as provided in subsection (b) not more than once during the individual's lifetime.

As added by P.L.172-2011, SEC.128.