



TO: Unemployment Insurance Benefits Division
Unemployment Insurance Appeals Division
Unemployment Insurance Review Board
Legal Support
Regional Coordinators
WorkOne Local Office Managers

FROM: Ronald L. Stiver
Commissioner

DATE: August 22, 2006

SUBJECT: DWD Policy 2006-05
Law Change -Unemployment Fraud and Overpayments

RE: All unemployment insurance funded sources administered by the
Indiana Department of Workforce Development

Purpose

To modify the policy and procedures regarding unemployment insurance fraud overpayments and collections

Contents

A modification to state law concerning unemployment insurance effective July 1, 2006 causes changes in the administration of unemployment insurance law regarding failure to disclose or falsification of information when applying for and receiving unemployment insurance benefits. This policy concerns the application of this law, penalties for failure to adhere to this law, write-off of benefit overpayments (statute of limitations on collection), and the addition of interest charges for certain overpayments.

This new law change repeals IC §22-4-16-1 and incorporates some of its former provisions into IC §22-4-13-1.1 applicable to fraud occurring after July 1, 2006.

Defining Fraud

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, he or she has violated the new law ("fraud").

Application of Fraud Penalty

1. A fraud penalty shall be applied to any and all weeks of occurrence and an overpayment shall be established for those weeks.
2. Cancellation of an entire claim shall no longer automatically occur as a result of application of IC §22-4-13-1.1 to a week(s) of benefits. Instead, only the monies actually earned during the week(s) of a fraud finding will be cancelled from use in establishment or payment of future unemployment benefits.
3. In addition to the overpayment amount established, a civil penalty shall be applied to a claim in which fraud has occurred after July 1, 2006 in an amount equal to a percentage of the total amount of overpayment established under each instance of fraud as follows:
 - 1st instance = 25%
 - 2nd instance = 50%
 - 3rd instance = 100%All subsequent instances are subject to 100% penalty.
4. An instance shall be defined as any determination of fraud on a benefit claim. Multiple determinations of fraud on one claim shall be counted as the same instance and shall all be penalized at the same occurrence rate.
5. A benefit claim is defined as an application for benefits under a specific program type, claim level, and benefit year ending date. Several claims could have the same benefit year ending date, but if the claims are of different program types or claim levels, each shall be counted as a separate claim for purposes of this policy.
6. If all benefit weeks claimed were paid before July 8, 2006, the law as it existed prior to that date shall be fully applied in accordance with IC §22-4-16-1. If all benefit weeks claimed are paid on or after July 8, 2006, the law and policy described herein shall apply. If fraud is determined on a claim for weeks prior to and after July 8, 2006, the law as it existed prior to that date shall be applied.
7. Interest shall be assessed on fraud overpayment balances for weeks occurring after July 1, 2006. The initial computation of interest shall occur at the end of the first full month following the determination of the issue causing the overpayment of benefits. Interest shall be added to any unpaid balance each month, computed as of the last day of the month, and shall be reflected on the monthly billing statement.
8. Civil penalties and interest monies collected shall be deposited into the special employment and training services fund.

Grounds for a Finding of Fraud

The following shall constitute adequate grounds for a determination that fraud has occurred with respect to a given benefit claim:

1. It is demonstrated that the claimant received information from the Indiana Department of Workforce Development concerning the requirements of reporting potentially disqualifying information through either a benefit rights interview (BRI) or a fraud disclaimer, conveyed upon the initial filing of the claim or within the weekly claim filing process;
2. The claimant withheld or falsified earnings or other disqualifying information (requires proof of such earnings or falsification); and
3. The withholding of such information caused a payment of unemployment benefits to which the claimant was not entitled.

Enforcement

The Benefit Payment Control Unit of the Indiana Department of Workforce Development, acting through its New Hire and Crossmatch sub-units shall conduct an appropriate investigation into the adequacy of grounds for establishing a finding of fraud and issue fraud decisions on those income issues in which there are three or fewer weeks of concurrence of benefits received and earnings, if the facts are present and obvious. Cases involving more weeks or more obscure situations requiring additional fact finding shall be referred to a Benefit Payment Control Investigator for examination and determination.

Any situation involving potential fraud observed by any Indiana Department of Workforce Development staff member shall be referred to the Benefit Payment Control Unit for adjudication.

Benefit Payment Control staff shall represent the Indiana Department of Workforce Development in appeals hearings involving any decision issued in accordance with this policy.

IC §22-4-13-1 concerning the write-off of overpayments (statute of limitations on collection) has been changed. Write-off of non-fraud overpayments shall occur three years from the establishment date of the overpayment or the final date of any appeal from the decision causing the overpayment, whichever is later. Write-off of fraud overpayments shall occur six years from the establishment date of the overpayment or the final date of the last appeal from the decision causing the overpayment, whichever is later. Write-off dates shall be extended beyond these time periods when prosecutions and civil action proceedings occur.

Effective Date: July 1, 2006

Review Date: July 1, 2008

Ownership

Benefit Payment Control

Action

All staff with the unemployment program should be notified of this policy. Any questions regarding this communication may be addressed to the Supervisor of Benefit Payment Control at 317.232.7490.