

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

April 1, 1966

Roy U. Sinclair, Chairman

Milton L. Bradford, Assistant Attorney General

Opinion Re Section 1194, 10 of the Law

By memorandum dated March 11, 1966, you requested a legal opinion relative to two questions stated as follows:

"Question #1: Referring to Section 1194, 10 of the Law: If, under procedures applicable to the 'request' wage reporting plan, a claimant is paid benefits, for one or more compensable weeks, based on his weekly benefit amount determined in whole or in part on his own statement of base period wages, should or should not overpayments for such weeks be established when a reduction in his WBA results from a redetermination based upon delayed wage information furnished by his base period employer(s)?"

"Question #2: Referring to Section 1221, 3, 4 of the Law: If the answer to Question #1 is 'No,' does, in such instances, the law provide for adjustment in experience rating account charges?"

ANSWER:

Question No. 1 - Overpayments for such week should not be established.

Question No. 2 - No.

OPINION:

Section 1194, 10 of the Employment Security Law reads, in part, as follows:

"10. Determination may be reconsidered; appeal. The commission may reconsider a determination with respect to the weekly benefit amount and maximum total amount of benefits for a claimant for any given benefit year, if it finds that an error in computation or identity has occurred in connection therewith, or that wages have been erroneously reported, but no such redetermination shall be made after one year from the date of the original determination. Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in this section with respect to notice of an original determination. If the maximum amount of benefits is increased upon such redetermination, an appeal therefrom solely with respect to the matters involved in such in-

crease may be filed in the manner and subject to the limitations provided in subsection 2. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to an appeal by claimant with respect to subsequent benefits which may be affected by the redetermination. An appeal may be filed in the manner and subject to the limitations provided in subsection 2...."

The above-quoted portion of Section 1194, 10 provides for a redetermination with respect to the weekly benefit amount and maximum total benefits for a claimant for any given year in case of an error in computation, identity, or erroneously reported wages.

The quoted portion further provides, "...If the maximum amount of benefits is increased upon such redetermination, an appeal therefrom solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in subsection 2...." (Emphasis supplied.)

This provision provides for an appeal by all interested parties if benefits are increased, but only as to the matters involved in such increase.

As to a benefits decrease upon a redetermination, the matters involved in such decrease are subject to an appeal by the claimant, only with respect to subsequent benefits affected by the redetermination. Under this provision there is no appeal as to claims already paid as determined by the original determination.

In my opinion the procedure followed since the revision of 1194, 10 (formerly 16, X) is the correct procedure, viz.

In case a redetermination results in a decrease in the weekly benefit amount, the total amount of claims paid previous to the redetermination are deducted from the new total amount available and subsequent claims are paid based on the redetermined weekly benefit amount. If a redetermination results in an increased weekly benefit amount, any claim weeks previously paid will be supplemented.

#### QUESTION NO. 2

Section 1194, 2 of the law, provides the deputy shall determine the proper employer's experience record, if any, against which benefits of an eligible individual shall be charged, if and when paid, under the provisions of Section 1221, 3, A and such determination becomes final if not appealed within seven calendar days. (Emphasis supplied.)

Section 1221, 3, A provides, in part:

"...Benefits paid to an eligible individual under the provisions of the Maine Employment Security Law shall be charged against the 'experience rating record' of the claimant's most recent subject employer or to the General Fund if the otherwise chargeable 'experience rating record' is that of an employer

April 1, 1966

whose status as such has been terminated..."  
(Reference supplied.)

{Section 1021,3,A contains 4 exceptions which need not be  
included in this discussion.}

RRH:\*

cc - Mr. Cote

Mr. George