

MAINE STATE LEGISLATURE

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Maine Employment Security Commission

INTER-OFFICE MEMORANDUM

Date: April 21, 1966

To: James J. George, Sr., Commissioner

Office: _____

From: Milton L. Bradford, Assistant Attorney General

Office: _____

Subject: Opinion Re Section 1194, 2 of the Law

By memorandum dated April 13, 1966, you requested an opinion as to whether or not an overpayment would be established against a claimant under the following conditions:

A claimant makes an application for benefits on May 4 and presumably a request for wage and separation information is mailed to the employer or employers on May 4 or 5.

The claimant reports on May 11 and signs for his waiting period. As there has been no response to the requested wage and separation information, the claimant is requested to estimate his earnings in the base period. A monetary determination is prepared based on the estimated earnings, and the employer receives a copy of same. (Actually, as I understand the procedure, the claimant would be given Form BD-1.3 on the 11th to be completed and returned on the 18th.) The claimant reports on May 18 and files for his first compensable claim. There being no response from the employer a monetary determination is made based on the BD-1.3 submitted by the claimant on the 18th, and a copy of same mailed to the claimant and the employer. On May 23 the employer notifies the local office that the wages estimated by the claimant were in excess of his actual gross earnings, there being no other employer involved. The deputy, within the appeal period, prepares a redetermination thereby reducing the maximum and weekly benefit amounts.

QUESTION:

In the above example, would an overpayment be established under the provisions of Section 1194, 2 of the law?

ANSWER:

It is my opinion that benefits should not be paid under the facts of the above example before the expiration of the appeal period of 7 days following the mailing of the decision (determination) to the interested parties on the 18th. See Section 1194, 2 which reads, in part, as follows:

April 21, 1966

"...The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons therefor. Unless the claimant or any such interested party, within 7 calendar days after such notification was mailed to his last known address, files an appeal from such determination, such determination shall be final and benefits shall be paid or denied in accordance therewith...."

In the cited example, there would be no question as to an overpayment if no claim or claims were paid until after the 7-day appeal period.

/e

cc - Mr. Sinclair
Mr. Cote.