

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1035

H. P. 848

House of Representatives, February 26, 1981

Speaker laid before the House and referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Hayden of Durham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Clarify the Procedure for Waiver of Unemployment Compensation Benefit Overpayment.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 26 MRSA § 1051, sub-§ 5, as last amended by PL 1977, c. 460, § 2, is further amended to read:

5. Refusal to repay erroneous payments; waiver of repayment. If, after due notice, any person refuses to repay amounts erroneously paid to him as unemployment benefits, the amounts due from such person shall be collectible in the manner provided in subsection 6 or in the discretion of the commission the amount erroneously paid to such person may be deducted from any future benefits payable to him under this chapter, **subject to the procedures and limitations of this subsection; Provided provided** that there shall be no recovery of payments from any person who, in the judgment of ~~at least 2 commissioners~~ **the commission**, is without fault on his part and where, in the judgment of the commission, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. **No recovery may be attempted until both the existence of an erroneous payment and the determination of whether the erroneously paid individual is entitled to a waiver are final as to law and fact.**

Sec. 2. 26 MRSA § 1051, sub-§ 5, as last amended by PL 1977, c. 460, § 2, is further amended by adding at the end 2 new paragraphs to read:

Once an erroneous payment is finally established, a determination as to whether the erroneously paid individual is entitled to a waiver under this subsection shall be made by a deputy. Notice of the deputy's decision, the reasons therefor, the right to appeal in accordance with section 1194 and the right to reopen the determination, as provided in this subsection, shall be sent to the claimant at his last known address. This decision shall be final unless appealed in accordance with section 1194 within 15 days from the date of notification.

The decision to deny a waiver otherwise final under this subsection shall be reopened by the commission at the request of the claimant, upon the allegation that a change in circumstances makes recovery contrary to the purpose of benefits otherwise authorized or would be against equity and good conscience.

STATEMENT OF FACT

Under current law, the Employment Security Commission is authorized to waive repayment under certain circumstances where an unemployment compensation claimant has received an overpayment through no fault of his own. The procedure by which waivers may be requested and awarded is ambiguous. As a result, many claimants are unaware of their right to request a waiver and of the process by which it may be obtained.

This bill clarifies the procedure by requiring that the determination to grant a waiver must be made in the same manner as are all other benefit determinations. This procedure is consistent with the United States Department of Labor guidelines.