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6.2.2 Obtaining Information. If, in the judgment of the division or upon its information and knowledge, the report of wages included in an employer's ~~premium~~ report is incomplete or in error, the division may require a further report, examine the employer's relevant books and records, or use other reasonable measures to the extent necessary to obtain an accurate report.

6.2.3 Summary Methods. If a contributing employer is delinquent in filing a wage report within the time prescribed by the division or if a reimbursing employer whose records are needed to make a proper determination of an amount of indebtedness or other matter declines to make its records available, the division may, in its discretion:

- .1 Use the information and knowledge available to the division to estimate the amount of chargeable wages paid by a contributing employer during the premium period or periods. The amount of chargeable wages so determined shall be deemed to have been paid by the employer and shall be used to determine the annual payroll;
- .2 Assess the employer for premiums calculated on the basis of the estimated wages; and
- .3 Issue a subpoena duces tecum to compel an employer to release books and records to the division for use in obtaining the required information.

7.2.4 Unemployment Insurance Quarterly Reports. Every employer subject to the act shall furnish to the division a quarterly report of total covered wages paid ~~and premiums owed~~, and a report of covered wages paid to all workers in his or her employ except that no such reports shall be required with respect to an employee of a state or local agency performing intelligence or counterintelligence functions if the head of such agency has determined that filing such reports could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission. These reports are due and any premiums due thereon are payable no later than the last day of the month immediately following the end of each calendar quarter, regardless of whether covered wages were paid during such quarter, and shall be filed in accordance with the methods specified in rule 7.2.5.

Quarterly wage reports will be considered timely if received electronically on or before the due date. If an employer has received a waiver of the requirement to file quarterly reports by electronic means, the report shall be considered timely if it is postmarked or

received prior to the due date. If the due date for filing timely quarterly wage reports falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day that is not a Saturday, Sunday, or legal holiday.

~~.1 Quarterly premiums owed reports will be considered timely if postmarked or received in person or electronically on or before the due date. If the due date for filing timely quarterly premiums owed reports falls on a Saturday, Sunday, or legal holiday, the reports due under this paragraph will be considered timely if postmarked or received in person or electronically on the next business day that is not a Saturday, Sunday, or legal holiday. Any report due under these provisions that is postmarked or received after the due date will bear penalties as provided in 8-79-104 (1), C.R.S., until properly filed on prescribed division forms using division approved reporting methods.~~

7.2.5 Reporting Methods. ~~Quarterly reports of premiums owed may be submitted in person, by mail, by facsimile machine, or by division approved electronic means. Quarterly reports of wages paid to workers must be submitted by division approved electronic means unless a waiver to submit such reports in person, by mail, or by facsimile machine has been granted by the division.~~

.1 Waiver of the requirement to file quarterly reports of wages paid to workers by division-approved electronic means will be granted only if the employer can demonstrate to the satisfaction of the division that such a means of reporting creates an undue burden on the employer.

.2 Waiver of the requirement to file quarterly reports of wages paid to workers by division-approved electronic means will be valid only for a one-year period commencing with the date of issue of said waiver.

7.2.6 Request for Report. The division may request a wage and/or separation report concerning a particular worker using any of the communication methods specified in rule 1.9 for the purpose of confirming a report previously submitted or obtaining information necessary to enable the division to make a determination of benefit rights. Such report shall be furnished to the division by division-approved electronic means except that the director, in the interest of the fair and efficient administration of the program, may permit the report to be furnished by other communication methods described in rule 1.9. The report shall be received by the division within ~~twelve~~ SEVEN calendar days after the date on which the division requests such information, except that the division may accept information out of time if it determines good cause exists for the untimely action, as referenced in 7.2.8 or 12.1.8. In the event that the requested

report is received late but before the initial adjudication of the matter for which the report was requested, there is a presumptive showing of good cause.

7.2.11 Penalties Remain in Force. Nothing contained in these rules shall be construed as reason to relieve an employer from:

.1 The responsibility for the submission of quarterly ~~premium~~ WAGE reports or from the liability for payment of penalties incurred for failure to timely submit such reports, as provided by 8-79-104 (1), C.R.S., or

.2 The responsibility to provide ~~wage and/or~~ separation reports or the liability for the payment of penalties incurred for failure to timely submit such information as provided by 8-73-107(1)(h), C.R.S., unless

.3 The division finds that the employer had good cause, as defined at rule 12.1.8, for failing to timely submit required documents.

Continuing Claims

2.1.7 Filing a Continued Claim. A continued claim is a request filed for waiting-period credit or payment for one or more weeks of unemployment. CLAIMANTS MUST FILE FOR CONTINUED CLAIMS BY INTERACTIVE VOICE RESPONSE SYSTEM OR BY DIVISION APPROVED ELECTRONIC MEANS. THE DIVISION MAY PERMIT A CLAIMANT TO FILE A CONTINUED CLAIM BY MAIL OR IN PERSON IF FILING BY INTERACTIVE VOICE RESPONSE SYSTEM OR BY DIVISION-APPROVED ELECTRONIC MEANS WOULD CAUSE UNDUE HARDSHIP FOR AN INDIVIDUAL. ~~Continued claims shall be filed by interactive voice response system or by division approved electronic means unless the division permits a continued claim to be filed by mail or in person because filing by interactive voice response system or by division approved electronic means would cause undue hardship for an individual. Continued claims shall be filed on a weekly or biweekly basis, as directed by the division.~~

.1 FILING PERIOD. CONTINUED CLAIMS MUST BE FILED ON A WEEKLY BASIS, AS DIRECTED BY THE DIVISION, AND MUST BE FILED NO LATER THAN THE SEVENTH DAY AFTER THE LAST DAY OF THE WEEK FOR WHICH THE CLAIMANT IS REQUESTING A BENEFIT PAYMENT.

~~.4.2 CONTINUED Claims Filed by Interactive Voice Response System. A continued claim shall be filed by the claimant after the last day of the week(s) for~~

~~which the claim is made, but not later than seven calendar days following the day of week(s) using CUBLine, the division's interactive voice response system. THE TERM "INTERACTIVE VOICE RESPONSE SYSTEM" MEANS THE DIVISION'S AUTOMATED INTERFACE BETWEEN A CALLER USING A TELEPHONE AND A DIVISION COMPUTER.~~

~~2.3 CONTINUED Claims Filed by Division-Approved Electronic Means. A continued claim shall be filed by the claimant after the last day of the week (s) for which the claim is made, but not later than fourteen calendar days following the last day of such week (s). DIVISION APPROVED ELECTRONIC MEANS INCLUDES THE INTERNET AND ANY OTHER TECHNOLOGY THE DIVISION IN ITS DISCRETION MAY APPROVE, OR WHEN APPROPRIATE, THE PANEL MAY APPROVE. THE TRANSMITTAL DATE RECORDED BY THE DIVISION'S AUTOMATED SYSTEMS SHALL DETERMINE THE DATE OF FILING.~~

~~3.4 CONTINUED Claims Filed by Mail. In the event that filing a continued claim by mail is permitted by the division, such claim shall be completed, signed by the claimant, and received by the central office of the division after the last day of the week(s) for which the claim is made, but not later than fourteen calendar days following the last day of such week(s). "MAIL" MEANS DELIVERY THROUGH THE UNITED STATES POSTAL SERVICE OR BY OTHER COMMERCIAL CARRIER, BUT NOT BY ELECTRONIC OR TELEPHONIC MEANS. IN THE EVENT THAT THE DIVISION PERMITS FILING A CONTINUED CLAIM BY MAIL, THE CLAIMANT MUST COMPLETE AND SIGN THE DOCUMENT. THE DIVISION MUST RECEIVE THE DOCUMENT AT THE CENTRAL OFFICE OF THE DIVISION NO LATER THAN THE LAST DAY OF THE FILING PERIOD.~~

~~4.5 CONTINUED Claims Filed in Person. In the event that filing an in person continued claim is permitted by the division, a completed claim, signed by the claimant, shall be filed IN THE EVENT THAT THE DIVISION PERMITS FILING AN IN-PERSON CONTINUED CLAIM, HE OR SHE MUST FILE in person, A COMPLETED CLAIM FORM, SIGNED BY THE CLAIMANT at a public employment office or at the central office of the division. THE CLAIMANT MUST COMPLETE THIS ACTION NO LATER THAN THE LAST DAY OF THE FILING PERIOD. Such claim shall be submitted after the last day of the week(s) for which the claim is made, but not later than fourteen calendar days following the last day of such week(s).~~

2.1.10.2 Continued Claims. The division may permit filing a continued claim out of time as set forth in regulation 2.1.7 only if the individual establishes to the satisfaction of the division that he or she exercised no control over the circumstances of the untimely filing.

Being unaware of the need to timely file shall not be IS NOT considered a factor outside an individual's control.

2.3.2 Week of Unemployment. Except as provided in regulations 2.3.4 and 2.3.5, a week of unemployment shall be the calendar week in which the individual files an initial, additional, or reopened claim with the division and each calendar week immediately following any such week for which said individual has filed a continued claim as provided by regulation or has failed to do so and has established to the satisfaction of the division that he or she exercised no control over that failure. However, no week shall be IS considered a week of unemployment unless the individual has worked less than thirty-two hours during such week, earned less than his or her weekly benefit amount, and has filed an initial, additional, or reopened claim not later than Wednesday of that week or has filed a continued claim pursuant to regulation 2.1.7.

Work Share

18.1.2 CRITERIA FOR WORK SHARE PLAN

.3 An employer who has been approved for a workshare plan must reduce hours and earnings for the employees identified on the work share plan by ~~the specific percentage approved by the division~~. AT LEAST TEN PERCENT AND NO MORE THAN 50 PERCENT OF THE EMPLOYEES' REGULAR WORK HOURS. ANY REDUCTION IN PAY UNDER THIS SECTION MUST BE PROPORTIONAL TO THE REDUCTION IN HOURS."

18.1.3.1 WORK SHARE PLAN MODIFICATION ~~IN EMERGENCY SITUATIONS~~. An employer can submit a plan modification for a maximum of one new modification every ~~28~~ 7 days or no earlier than ~~28~~ 7 days after the submission of a plan or plan modification ~~during an economic crisis or declared state of emergency~~.

~~18.1.6.6 An individual may receive up to 52 weeks of work share benefits, not to exceed the maximum benefit amount available on the claim during an economic crisis or declared state of emergency and when federal law permits workshare benefits normally charged to an employer's account to be covered by other funding.~~

18.1.7 Work Share Program Administration. The administration of the work share program shall be as follows:

.1 A work share plan shall be effective on the date it is approved by the director or the first week specified by the employer, whichever is later.

.3 An employer's chargeability under a work share plan is subject to the provisions of 8-73- 108 (3)(e)(i) C.R.S.; ~~except that, during an economic crisis or declared state of emergency, those benefits normally charged to the employer's account shall be charged to the fund.~~

SB22-234 Clean up

Overpayments

13.2.9 Responsibilities of the Paying State.

.5 Recovery of Prior Overpayments. If there is an overpayment outstanding in a transferring state and such transferring state so requests, the overpayment shall be deducted from any benefits the paying state would otherwise pay to the claimant on his or her combined-wage claim, except to the extent prohibited by the law of the paying state. The paying state shall transmit the amount deducted to the transferring state or credit the deduction against the transferring state's required reimbursement under this arrangement. This subsection shall apply to overpayments only if the transferring state certifies to the paying state that the determination of overpayment was made within three years before the combined-wage claim was filed and that repayment by the claimant is legally required and enforceable against the claimant under the law of the transferring state.

PART XV BENEFIT OVERPAYMENTS

15.1 WRITE-OFF OF RECOVERY

15.1.1 Statutory References: 8-74-109, 8-79-102, and 8-81-101(4)(b)(c)(d), C.R.S.

15.1.2 Purpose. The division may write off the recovery of all or part of the amount of overpaid benefits that it finds non-collectible or the recovery of which it finds to be administratively impracticable.

15.1.3 Criteria for Write-Off. In determining whether overpaid benefits are non-collectible or whether the recovery of such benefits would be administratively impracticable, the division shall consider all relevant factors including, but not limited to, the following:

.1 That the claimant has died.

.2 That the claimant is totally and permanently disabled.

.3 That the claimant has retired from the labor force, including consideration of the claimant's age, the likelihood of the claimant's reentering the labor force, the claimant's physical condition, and the claimant's financial status.

.4 That the claimant has been adjudicated bankrupt.

.5 That the division determines the costs of collection to exceed the amount of overpayment.

.6 That the overpaid amount, if not due to false representation or willful failure to disclose a material fact, has remained uncollected for more than five years.

.7 That the overpaid amount, if due to false representation or willful failure to disclose a material fact, has remained uncollected for more than seven years.

15.2 WAIVER OF RECOVERY

15.2.1 Statutory References: 8-79-102, 8-81-101 (4)(a)(I)(II), and 8-81-101 (4)(c)(d)(e), C.R.S.

15.2.2 Request for Waiver. When a determination establishing an overpayment is final, the overpaid claimant shall be notified of the overpayment and advised that a written request for waiver of recovery may be submitted to the division. Such request shall be submitted in accordance with regulation 1.3.11. Upon receipt of such request, the division shall suspend recovery of the overpayment until the waiver determination is final.

.1 If the final waiver determination denies said request, subsequent requests for waiver may be submitted upon a showing by the claimant of a significant change in financial conditions affecting his or her ability to repay the overpaid amount, such as catastrophic illness or loss of employment.

.2 A final determination that approves a waiver request shall apply only to the overpaid balance at the time the request was made, as evidenced by the date received, if mailed or filed in person, the receipt date encoded on a facsimile document, or the receipt date recorded by the division's automated systems if filed using division-approved electronic means and shall not be retroactive to any part of the overpaid amount already recovered. EXCEPT THAT, IF THE

DIVISION HAS FAILED TO TIMELY NOTIFY THE INDIVIDUAL OF THE RIGHT TO REQUEST A WAIVER AS REQUIRED, THE WAIVER SHALL THEN BE RETROACTIVE TO THE DATE OF THE OVERPAYMENT DETERMINATION.

15.2.3 Requests for Information by the Division. Financial and other relevant information that, in the opinion of the division, is necessary to render a waiver determination may be requested from the claimant by the division in writing. Failure by the claimant to provide the requested information, in writing, to the division within fifteen calendar days of said request shall cause the claimant's request for waiver to be determined based on available information. Information may be submitted to the division in person, by mail, by facsimile machine, or by division approved electronic means.

15.2.4 Criteria for Waiver. A person who is overpaid any amount of benefits is liable for the amount overpaid. The division may waive the recovery of all or any part of an overpaid amount only when:

.1 The overpayment did not result from false representation or willful failure to disclose a material fact by the claimant; and

.2 Requiring repayment would be inequitable.

15.2.5 False Representation. For purposes of part XV of the regulations, the term "false representation" means any representation made by an individual that he or she knew to be false or any representation made by an individual with an awareness that he or she did not know whether the representation was true or false.

15.2.6 Willful Failure to Disclose a Material Fact. For purposes of part XV of the regulations, the term "willful failure to disclose a material fact" means knowingly withholding material information from the division.

~~15.2.7 Inequitability. In determining whether requiring repayment of an overpaid amount is inequitable, the division shall consider the following factors, which are not exclusive, and any other relevant factors:~~

~~.1 The claimant's financial condition required that the overpaid benefits be spent on reasonable and necessary living expenses. INCLUDING HOUSING, FOOD, SCHOOL LOANS, CHILD CARE, OUTSTANDING LOAN AND CREDIT CARD BALANCES, TRANSPORTATION, AND MEDICAL EXPENSES;~~

~~.2 The claimant's household income is below the federal poverty income guidelines. EXCLUSIVE OF PUBLIC ASSISTANCE BENEFITS, DURING THE THREE MONTHS PRIOR TO THE OVERPAYMENT DETERMINATION, WAS AT OR BELOW FOUR TIMES THE FEDERAL POVERTY GUIDELINES DETERMINED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.~~

~~.3 The claimant lacks the ability to repay the overpaid amount based on prior income level, current household income and assets, and future earnings potential.~~

~~.4 Requiring repayment will cause extraordinary financial hardship by depriving the claimant of the ability to provide for basic necessities that cannot be deferred, such as food, shelter, clothing, utilities, and medical costs not covered by insurance.~~

~~.5 The claimant detrimentally changed his or her position in reliance on the receipt of the overpaid benefits including, but not limited to, entering into a financial and/or contractual obligation that he or she would not have entered except for the receipt of the overpaid benefits.~~

~~.6 DUE TO THE NOTICE THAT THE BENEFIT PAYMENT WOULD BE MADE OR BECAUSE OF THE INCORRECT PAYMENT The claimant relinquished a valuable right in reliance on the receipt of the overpaid benefits, including the receipt of other government benefits for which he or she would have been entitled except for the receipt of the overpaid benefits. Although the claimant is not required to apply for other government benefits and be rejected from receiving them, he or she may be required to prove eligibility for such benefits by establishing his or her economic situation at the time unemployment benefits were received as well as the requirements for receiving said benefits. THE PERSON INCURRED A FINANCIAL OBLIGATION, SUCH AS A LEASE, BASED ON BENEFIT PAYMENTS THAT THE PERSON RECEIVED; THE PERSON RELIED ON THE BENEFIT PAYMENT AND TOOK OUT A LOAN, IN WHICH THE PERSON HAS ALREADY INVESTED THE BENEFIT PAYMENT RECEIVED AND REPAYMENT OF THE OVERPAYMENT WILL CAUSE THE PERSON TO DEFAULT ON THE LOAN, RESULTING IN CRIMINAL OR CIVIL ACTIONS; OR THE PERSON DECLINED OTHER FINANCIAL ASSISTANCE BECAUSE THE PERSON RECEIVED BENEFITS AND THOUGHT THE~~

~~PERSON WOULD NOT NEED ADDITIONAL FINANCIAL ASSISTANCE FROM OTHER SOURCES.~~

~~.7 THE PERSON WHO RECEIVED THE OVERPAYMENT IS RECEIVING OR HAS RECEIVED ANY OF THE FOLLOWING PUBLIC ASSISTANCE BENEFITS IN THE TWELVE MONTHS PRIOR TO THE DIVISION PROVIDING NOTICE TO THE PERSON OF THE OVERPAYMENT: FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS, TEMPORARY ASSISTANCE TO NEEDY FAMILIES BENEFITS, FEDERAL SUPPLEMENTAL SECURITY INCOME, SOCIAL SECURITY DISABILITY BENEFITS RECEIVED AFTER ANY UNEMPLOYMENT INSURANCE BENEFITS WERE PAID, MEANS TESTED LEGAL AID SERVICES; BENEFITS FROM THE LOW INCOME ENERGY ASSISTANCE PROGRAM CREATED IN SECTION 26-2-122.5, FEDERAL OR STATE EARNED INCOME TAX CREDITS, FREE OR REDUCED-PRICE SCHOOL LUNCH BENEFITS, PUBLIC OR SUBSIDIZED HOUSING BENEFITS, MEDICAID BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM, ARTICLES 4 TO 6 OF TITLE 25.5, OR MEDICARE BENEFITS;~~

~~.7 .8 The claimant was at fault in causing the overpayment through his or her negligence carelessness, or acceptance of a payment that the individual either knew, should have known, or reasonably could have been expected to know was incorrect.~~

~~.9 THE OVERPAYMENT WAS CAUSED, AT LEAST IN PART, BY AN ERROR BY THE DIVISION OR BY THE PERSON'S RELIANCE ON THE DIVISION'S PUBLICIZED INFORMATION OR GUIDANCE THAT WAS LATER DETERMINED TO BE ERRONEOUS~~

~~.10 ANY OTHER REASON THE DIVISION FINDS SUFFICIENT TO ESTABLISH THAT REPAYMENT WOULD BE INEQUITABLE.~~