

**35A-4-406 Claims for benefits -- Continuing jurisdiction -- Appeal -- Notice of decision -- Repayment of benefits fraudulently received.**

- (1)
  - (a) Claims for benefits shall be made and shall be determined by the division or referred to an administrative law judge in accordance with rules adopted by the department.
  - (b) Each employer shall post and maintain in places readily accessible to individuals in his service printed statements concerning benefit rights, claims for benefits, and the other matters relating to the administration of this chapter as prescribed by rule of the department.
  - (c) Each employer shall supply to individuals in his service copies of the printed statements or other materials relating to claims for benefits when and as the department may by rule prescribe. The printed statements and other materials shall be supplied by the division to each employer without cost to the employer.
- (2)
  - (a) Jurisdiction over benefits shall be continuous.
  - (b) Upon its own initiative or upon application of any party affected, the division may on the basis of change in conditions or because of a mistake as to facts, review a decision allowing or disallowing in whole or in part a claim for benefits.
  - (c) The review shall be conducted in accordance with rules adopted by the department and may result in a new decision that may award, terminate, continue, increase, or decrease benefits, or may result in a referral of the claim to an appeal tribunal.
  - (d) Notice of any redetermination shall be promptly given to the party applying for redetermination and to other parties entitled to notice of the original determination, in the manner prescribed in this section with respect to notice of an original determination.
  - (e) The new order shall be subject to review and appeal as provided in this section.
  - (f) A review may not be made after one year from the date of the original determination, except in cases of fraud or claimant fault as provided in Subsection (4).
- (3)
  - (a) The claimant or any other party entitled to notice of a determination as provided by department rule may file an appeal from the determination with the Division of Adjudication within 10 days after the date of mailing of the notice of determination or redetermination to the party's last-known address or, if the notice is not mailed, within 10 days after the date of delivery of the notice.
  - (b) Unless the appeal or referral is withdrawn with permission of the administrative law judge, after affording the parties reasonable opportunity for a fair hearing, the administrative law judge shall make findings and conclusions and on that basis affirm, modify, or reverse the determination or redetermination.
  - (c) The administrative law judge shall first give notice of the pendency of an appeal to the division, which may then be a party to the proceedings. The administrative law judge shall receive into the record of the appeal any documents or other records provided by the division, and may obtain or request any additional documents or records held by the division or any of the parties that the administrative law judge considers relevant to the proper determination of the appeal.
  - (d) The parties shall be promptly notified of the administrative law judge's decision and shall be furnished with a copy of the decision and the findings and conclusions in support of the decision.
  - (e) The decision is considered to be final unless, within 30 days after the date of mailing of notice and a copy of the decision to the party's last-known address, or in the absence of mailed

notice, within 30 days after the delivery of the notice, further appeal is initiated in accordance with Section 35A-4-508 and Chapter 1, Part 3, Adjudicative Proceedings.

- (4)
- (a) Any person who, by reason of his fraud, has received any sum as benefits under this chapter to which he was not entitled shall repay the sum to the division for the fund.
  - (b) If any person, by reason of his own fault, has received any sum as benefits under this chapter to which under a redetermination or decision pursuant to this section he has been found not entitled, he shall repay the sum, or shall, in the discretion of the division, have the sum deducted from any future benefits payable to him, or both.
  - (c) In any case in which under this subsection a claimant is liable to repay to the division any sum for the fund, the sum shall be collectible in the same manner as provided for contributions due under this chapter.
- (5)
- (a) If any person has received any sum as benefits under this chapter to which under a redetermination or decision he was not entitled, and it has been found that he was without fault in the matter, he is not liable to repay the sum but shall be liable to have the sum deducted from any future benefits payable to him.
  - (b) The division may waive recovery of the overpayment if it is shown to the satisfaction of the division that the claimant has the inability to meet more than the basic needs of survival for an indefinite period lasting at least several months.

Renumbered and Amended by Chapter 240, 1996 General Session