

1 Penalty Weeks and Overpayments

2 § 1347. NONDISCLOSURE OR MISREPRESENTATION

3 (a)(1) Any ~~person~~ individual who fails, without good cause, to make a
4 reasonable effort to secure suitable work when directed to do so by the
5 employment office or the Commissioner and has received any amount as
6 benefits under this chapter with respect to weeks for which the ~~person~~
7 individual is determined to be ineligible for such failure; and any ~~person~~
8 individual who by nondisclosure or misrepresentation by ~~him or her~~ the
9 individual, or by another, of a material fact (irrespective of whether such
10 nondisclosure or misrepresentation was known or fraudulent) has received any
11 amount as benefits under this chapter while any conditions for the receipt of
12 benefits imposed by this chapter were not fulfilled ~~in his or her case~~ by the
13 individual or while ~~he or she~~ the individual was disqualified from receiving
14 benefits; shall be liable ~~for such~~ to repay the amount.

15 (2) Notice of a determination in such cases made pursuant to this
16 subsection shall specify that the ~~person~~ individual is liable to repay to the Fund
17 the amount of overpaid benefits, the basis of the overpayment, and the week or
18 weeks for which ~~such~~ the benefits were paid.

19 (3) The determination shall be made within three years from the date of
20 ~~such~~ the overpayment.

21 (b) Any ~~person~~ individual who receives remuneration described in
22 subdivision 1344(a)(5) of this title that is allocable in whole or in part to prior

1 weeks during which ~~he or she~~ the individual received any amounts as benefits
2 under this chapter shall be liable for all such amounts of benefits or those
3 portions of such amounts equal to the portions of such remuneration properly
4 allocable to the weeks in question. ~~Notice~~ A notice of a determination in such
5 eases made under this subsection shall specify that the ~~person~~ individual is
6 liable to repay to the Fund the amount of overpaid benefits, the basis of the
7 overpayment, and the week or weeks for which ~~such~~ the benefits were paid.
8 The determination shall be made within three years from the date of ~~such~~ the
9 overpayment or within one year from the date of receipt of the remuneration,
10 whichever period is longer.

11 (c)(1) ~~The person~~ An individual liable under this section shall repay ~~such~~
12 the amount to the Commissioner for the Fund, provided that the Commissioner
13 shall waive the amount of any overpayment for which an individual is without
14 fault and may reduce or waive the amount for which an individual is liable if
15 requiring repayment would be contrary to equity and good conscience.

16 (2) In addition to the repayment, if the Commissioner finds that ~~a person~~
17 an individual intentionally misrepresented or failed to disclose a material fact
18 with respect to ~~his or her~~ the individual's claim for benefits, the ~~person~~
19 individual shall pay an additional penalty of 15 percent of the amount of the
20 overpaid benefits. Any additional penalty amount collected shall be deposited
21 in the Fund. ~~Such~~ The amount may be collectible by civil action in the
22 Superior Court, in the name of the Commissioner.

1 (d) ~~In any case in which under this section a person~~ If, pursuant to this
2 section, an individual is liable to repay any amount to the Commissioner for
3 the Fund, the Commissioner may withhold, in whole or in part, any future
4 benefits payable to ~~such person,~~ the individual and credit ~~such~~ the withheld
5 benefits against the amount due from ~~such person~~ the individual until it is
6 repaid in full, less any penalties assessed under subsection (c) of this section.

7 (e)(1) ~~In addition to the foregoing penalty imposed pursuant to subdivision~~
8 (c)(2) of this section, when ~~it is found by~~ the Commissioner finds that ~~a person~~
9 an individual intentionally misrepresented or failed to disclose a material fact
10 with respect to ~~his or her~~ the individual's claim for benefits and in the event the
11 ~~person~~ individual is not prosecuted under section 1368 of this title and the
12 penalty provided in section 1373 of this title is not imposed, the ~~person~~
13 individual shall be disqualified and shall not be entitled to receive benefits to
14 which ~~he or she~~ the individual would otherwise be entitled after the
15 determination for ~~such number of weeks not exceeding a period of not more~~
16 than 26 weeks as the Commissioner ~~shall deem~~ deems just. The notice of
17 determination shall ~~also~~ specify the period of disqualification imposed
18 hereunder.

19 (2) Any remaining weeks in a period of disqualification imposed
20 pursuant subdivision (1) of this subsection shall be waived:

21 (A) in the event of a state of emergency declared by the Governor in
22 relation to a public health emergency or disaster that has caused the statewide

1 seasonally adjusted unemployment rate for any month to rise to a level that is
2 at least one percentage point above the average statewide seasonally adjusted
3 unemployment rate for the previous 12 months; or

4 (B) upon the passage of two years from the date of the determination.

5 (f)(1) Interested parties shall have the right to appeal from any
6 determination under this section and the same procedure shall be followed as
7 provided for in subsection 1348(a) and section 1349 of this title.

8 (2)(A) The Commissioner may, for good cause, reconsider a
9 determination that an individual intentionally misrepresented or failed to
10 disclose a material fact with respect to the individual's claim for benefits at any
11 time within two years after the date of the original determination. Following
12 reconsideration, the Commissioner may sustain, modify, or overturn the prior
13 determination and any associated penalty or period of disqualification. Prompt
14 notice of the Commissioner's decision upon reconsideration shall be given to
15 the individual, the individual's last employer, and all other interested parties.

16 (B) Failure to file a timely appeal of the original determination shall
17 not prevent the Commissioner from determining that good cause exists to
18 reconsider the original determination.

19 (C) The reconsideration shall not affect any penalty weeks served or
20 penalty amounts paid prior to the date of the Commissioner's decision upon
21 reconsideration.

- 1 (D) The parties shall have the right to appeal the Commissioner's
2 decision as provided in subsection 1348(a) and section 1349 of this title.

1 Elimination of Exemption for Nonprofits with Fewer Than Four Employees

2 § 1301. DEFINITIONS

3 ~~The following words and phrases, as As used in this chapter, shall have the~~
4 ~~following meanings unless the context clearly requires otherwise:~~

5 * * *

6 (6)(A)(i) “Employment,” subject to the other provisions of this
7 subdivision (6), means service ~~within the jurisdiction of this State, performed~~
8 ~~prior to January 1, 1978, which was employment as defined in this subdivision~~
9 ~~prior to such date and, subject to the other provisions of this subdivision,~~
10 service performed ~~after December 31, 1977,~~ by an employee, as defined in
11 subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including
12 service in interstate commerce, performed for wages or under any contract of
13 hire, written or oral, expressed or implied. Services partly within and partly
14 ~~without~~ outside this State may by election as ~~hereinbefore~~ provided pursuant to
15 subdivision (5) of this section be treated as if wholly within the jurisdiction of
16 this State. ~~And whenever~~ Whenever an employing unit ~~shall have~~ has elected
17 to come under the provisions of a similar act of a state where a part of the
18 services of an employee are performed, the Commissioner, upon ~~his or her~~
19 ~~approval of said~~ approving the election as to ~~any such~~ the employee, may treat
20 the services covered by ~~said approved~~ the election as having been performed
21 wholly ~~without~~ outside the jurisdiction of this State.

22 * * *

1 (ix) The term “employment” shall also include service for any
 2 employing unit ~~which is performed after December 31, 1974~~ by an individual
 3 in the employ of a religious, charitable, educational, or other organization but
 4 only if:

5 ~~(I)~~ the service is excluded from “employment” as defined in the
 6 Federal Unemployment Tax Act solely by reason of section 3306(c)(8) of that
 7 act; ~~and~~

8 ~~(II)~~ ~~the organization had four or more individuals in~~
 9 ~~employment for some portion of a day in each of 20 different weeks, whether~~
 10 ~~or not such weeks were consecutive, within either the current or preceding~~
 11 ~~calendar year, regardless of whether they were employed at the same moment~~
 12 ~~of time.~~

13 * * *

1 **Option 2:**

2 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

3 DISCLOSURE TO SUCCESSOR ENTITY

4 (a)(1) The Commissioner shall maintain an experience-rating record for
5 each employer. ~~Benefits~~ One-half of the benefits paid to an eligible individual
6 shall be charged against the experience-rating record of the individual's most
7 recent employer, and the remaining portion of the benefits paid to the
8 individual shall be charged against the experience rating record of each subject
9 employer who provided base-period wages to the eligible individual. ~~Each~~
10 ~~subject employer's experience-rating charge shall bear in~~ the same ratio to total
11 ~~benefits paid~~ as the total base-period wages paid by that employer bear to the
12 total base-period wages paid to the individual by all base-period employers.
13 The experience-rating record of an individual subject ~~base-period~~ employer
14 shall not be charged for benefits paid to an individual under any of the
15 following conditions:

16 * * *

1 **Option 3:**

2 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

3 DISCLOSURE TO SUCCESSOR ENTITY

4 (a)(1) The Commissioner shall maintain an experience-rating record for
5 each employer. Benefits paid to an eligible individual shall be charged against
6 the experience-rating record of each subject employer who provided ~~base-~~
7 ~~period~~ wages to the eligible individual in the inverse chronological order in
8 which the employment of the individual occurred. ~~Each subject employer's~~
9 ~~experience rating charge shall bear the same ratio to total benefits paid as the~~
10 ~~total base period wages paid by that employer bear to the total base period~~
11 ~~wages paid to the individual by all base period employers~~ The amount
12 charged against the experience rating record of a subject employer shall not
13 exceed one-third of the wages paid by the subject employer to the individual
14 during the period between the start of the individual's base period and the start
15 of the individual's benefit year or one-third of the maximum benefit amount of
16 the eligible individual pursuant to section 1340 of this chapter, whichever is
17 less. The experience-rating record of an individual subject ~~base-period~~
18 employer shall not be charged for benefits paid to an individual under any of
19 the following conditions:

20 * * *