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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 5@ UNEMPLOYMENT COMPENSATION BENEFITS

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Article 4@ OVERPAYMENTS

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Section 1375-1@ Recovery of Overpayments

## 1375-1 Recovery of Overpayments

**(a)** General Principle. Except for the relief from liability for overpayments provided by Sections 1380 and 2740 of the code, any person who is overpaid any amount of benefits is liable for the amount overpaid unless all of the following conditions exist: (1) The overpayment was not due to fraud, misrepresentation, or willful nondisclosure by the person. (2) The overpayment was received without fault by the person. (3) The recovery of the overpayment would be against equity and good conscience.

### **(1)**

The overpayment was not due to fraud, misrepresentation, or willful nondisclosure by the person.

### **(2)**

The overpayment was received without fault by the person.

### **(3)**

The recovery of the overpayment would be against equity and good conscience.

### **(b)**

Scope. This section applies to overpayments of unemployment compensation benefits, extended duration benefits, federal-state extended benefits, and disability benefits.

### **(c)**

Fault of the Claimant. In determining fault, the department shall consider the nature and cause of the overpayment and the capacity of the particular claimant to recognize the error resulting in the overpayment. A claimant who receives or retains benefits which he or she knew or reasonably should have known he or she was not lawfully entitled to receive is at fault. The claimant is not at fault if the benefits were retained because of the claimant's good faith reliance on a departmental error. A claimant who negligently reports or fails to report information which results in an overpayment is at fault. If the claimant is at fault he or she is liable for the overpayment.

EXAMPLE 1. A claimant receives \$160 benefits every 2 weeks. The claimant reports earnings of \$100 per week for a 2-week period. Through departmental error, those earnings are not reflected in the benefit payment and claimant receives \$160 for that 2-week period. The claimant retains the benefits without informing the department of the error. There are no other facts indicating the claimant did not have the capacity to recognize the error or that the claimant relied in good faith on the department's error. In this case, the claimant is at fault because he or she accepted a payment which he or she knew or should have known was incorrect.

EXAMPLE 2. A claimant applies for benefits and receives notice of an award of a weekly benefit amount of \$80. However, the notice prepared by the department is erroneous and the weekly benefit amount should be only \$60. The claimant is not at fault in the absence of any showing that he or she should have known of the error. Since no such showing appears here, he claimant is not at fault.

EXAMPLE 3. A claimant reports earnings of \$80 per week when in fact the claimant knew or should have known that his or her earnings were \$100 per week. The claimant is at fault and is liable for the overpayment.

EXAMPLE 4. The claimant receives and retains benefits from California and from another state for the same week, but does not report the duplication. The claimant is at

fault, unless there is a showing that the claimant reasonably misunderstood benefits entitlement, and no such showing appears here. The claimant is at fault and is liable for the overpayment. EXAMPLE 5. The claimant applies for disability or unemployment benefits and is placed on notice with the first payment that he/she must report either the receipt of any workers' compensation benefits or the making of a claim for workers' compensation because he/she may not receive double payments for the same days. The claimant receives both workers' compensation and disability or unemployment insurance benefits but does not report the duplication. The claimant is at fault and is liable for the overpayment.

**(d)**

Equity and Good Conscience. The department shall, in determining whether the recovery of an overpayment would be against equity and good conscience, consider the following factors: (1) Notice to Claimant. If an overpayment is created as a result of a decision by an administrative law judge or the Appeals Board which reverses a prior decision granting benefits, the claimant shall not be required to repay the overpayment unless the department has given notice to the claimant that his or her entitlement to benefits has been appealed and that he or she may be required to repay the benefits in the event of a reversal by an administrative law judge or the Appeals Board. If the notice is given, recovery of the overpayment is appropriate unless there has been a change of position by the claimant or recovery will cause extraordinary hardship. (2) Change of Position. If a claimant has detrimentally changed his or her position in reliance upon benefit payments, the recovery of an overpayment of benefits is against equity and good conscience. A claimant will be considered to have detrimentally changed his or her position in reliance upon the receipt of benefits if the claimant has taken any reasonable action or incurred a necessary financial obligation in the conduct of his

or her affairs which the claimant would not have taken but for the receipt of the benefits. EXAMPLE 1. A claimant is overpaid benefits of \$31. During the time that he or she was being paid benefits, his or her savings account balance diminished from \$500 to \$250. The claimant's only income during this period was unemployment insurance. All of the funds spent by him or her during this period were for current expenses. By virtue of having expended benefits and savings, this claimant has changed his or her position in reliance on benefit payments. EXAMPLE 2. A claimant was overpaid benefits of \$104. At the time that the overpayment was being assessed, he or she was fully employed at \$7.50 per hour and had more than the amount of the overpayment in his or her checking account. Because this claimant has not changed his or her position due to receipt of benefits, there is no detrimental reliance in this example. (3) Extraordinary Hardship. If recovery of an overpayment would impose extraordinary hardship on a claimant or the claimant's family, the recovery of the overpayment is against equity and good conscience and shall be waived. In making this determination, the department shall consider the family income and assets of the claimant and other factors, as follows:(A) Waiver--Family Income. The gross income of the claimant and his or her spouse which is available to the claimant shall be considered to determine whether a reasonable standard of living exists in accord with the family income levels set forth in the current Family Income Level Table below. As used in this section, "income" includes income from all sources including, but not limited to, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits, and disability benefits. If the claimant's average monthly family income for the preceding six months does not exceed the appropriate level set forth in the current Family Income Level Table below, the overpayment shall, except as provided by paragraph (3)(C) of this subdivision, be

waived by the department. (B) Family Income Level Table. Before the first day of July each year, and on the effective date of this regulation, the director shall establish a Family Income Level Table as described below: For the fiscal year beginning July 1, 1983, the Table shall be computed by multiplying the average annual low income budget amount as issued by the Employment Development Department for fiscal year July, 1982 - June, 1983 (\$16,714) by the change in the Consumer Price Index U. S. City Average for Urban Wage Earners and Clerical Workers for the period May, 1982 - April, 1983. The figure shall be multiplied by the percentages in the following Table: Persons in Family Gross Monthly Income

Persons in Family	Gross Monthly Income	Percentage of Average for Family of 4
1	40% of average for family of 4	40%
2	62% of average for family of 4	62%
3	83% of average for family of 4	83%
4	100% of average for family of 4	100%
5	119% of average for family of 4	119%
6	138% of average for family of 4	138%

For each additional person add 19% of average for family of 4 To produce a Family Income Level Table for each fiscal year thereafter, the director shall repeat the process described above, using the estimated low income budget figure for immediately preceding fiscal year and the change in the above-specified Consumer Price Index for the immediately preceding May to April. (C) Waiver-Assets and Unusual Circumstances. If a claimant's average monthly family income for the preceding six months does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or a family member, clothing and tools of the trade. If a claimant's average monthly

family income for the preceding six months exceeds the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any unusual circumstances such as medical expenses or other necessary living expenses which would cause recovery of an overpayment to place an extraordinary hardship on the claimant or the claimant's family. EXAMPLE 6. A claimant is married and has two children at home. The average monthly family income for the preceding six months was below the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has no readily available assets. Recovery of the overpayment will cause extraordinary hardship and the overpayment is waived. EXAMPLE 7. A claimant is married and has two children at home. The average monthly family income for the preceding six months was in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings, and a car, but no other assets, and no unusual expenses or debts. The overpayment is not waived. EXAMPLE 8. Assume the same facts as in Example 7, except that the claimant pays \$100 a month in outstanding medical bills which total \$5,000. Recovery of the overpayment will cause extraordinary hardship and the overpayment is waived. (D) Recovery-Current Family Income and Assets. If the department has not waived the overpayment, the department shall establish, by mutual agreement if possible, a repayment schedule at the time of the overpayment determination. In establishing the repayment schedule the department shall consider the current family income and assets of the claimant, as follows:(i) If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought, exceeds the appropriate amount set forth in the current Family Income Level Table above, the excess for that period is available to repay the overpayment unless there are unusual

circumstances such as medical expenses or other necessary living expenses. In cases of such unusual circumstances, the repayment amount shall not be less than \$10 per month. The department shall also consider any liquid or readily convertible assets as set forth in subparagraph (ii) below. (ii) If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or a family member, clothing, and tools of the trade.

EXAMPLE 9. The claimant is married and has two children at home. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was \$12 in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings therein, and a car, but no other assets, and has no unusual expenses or debts. The repayment schedule may provide for a maximum payment of \$12 per month.

EXAMPLE 10. The claimant is married but has no children. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was below the allowable gross monthly income for a family of 2 using the current Family Income Level Table. Claimant also has stocks valued at \$300. The repayment schedule may provide for a minimum payment of \$10 per month and a lump sum recovery for the resale value of the stocks, less costs of sale.

EXAMPLE 11. Assume the same facts as in Example 9, except that

the claimant pays \$40 monthly in outstanding medical bills which total \$500. The repayment schedule may provide for a minimum payment of \$10 per month.

**(1)**

Notice to Claimant. If an overpayment is created as a result of a decision by an administrative law judge or the Appeals Board which reverses a prior decision granting benefits, the claimant shall not be required to repay the overpayment unless the department has given notice to the claimant that his or her entitlement to benefits has been appealed and that he or she may be required to repay the benefits in the event of a reversal by an administrative law judge or the Appeals Board. If the notice is given, recovery of the overpayment is appropriate unless there has been a change of position by the claimant or recovery will cause extraordinary hardship.

**(2)**

Change of Position. If a claimant has detrimentally changed his or her position in reliance upon benefit payments, the recovery of an overpayment of benefits is against equity and good conscience. A claimant will be considered to have detrimentally changed his or her position in reliance upon the receipt of benefits if the claimant has taken any reasonable action or incurred a necessary financial obligation in the conduct of his or her affairs which the claimant would not have taken but for the receipt of the benefits. EXAMPLE 1. A claimant is overpaid benefits of \$31. During the time that he or she was being paid benefits, his or her savings account balance diminished from \$500 to \$250. The claimant's only income during this period was unemployment insurance. All of the funds spent by him or her during this period were for current expenses. By virtue of having expended benefits and savings, this claimant has changed his or her position in reliance on benefit payments. EXAMPLE 2. A claimant was overpaid benefits of \$104. At the time that the overpayment was being assessed, he or she was fully employed at \$7.50 per hour and had more than the amount of the



overpayment in his or her checking account. Because this claimant has not changed his or her position due to receipt of benefits, there is no detrimental reliance in this example.

**(3)**

Extraordinary Hardship. If recovery of an overpayment would impose extraordinary hardship on a claimant or the claimant's family, the recovery of the overpayment is against equity and good conscience and shall be waived. In making this determination, the department shall consider the family income and assets of the claimant and other factors, as follows:

(A) Waiver--Family Income. The gross income of the claimant and his or her spouse which is available to the claimant shall be considered to determine whether a reasonable standard of living exists in accord with the family income levels set forth in the current Family Income Level Table below. As used in this section, "income" includes income from all sources including, but not limited to, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits, and disability benefits. If the claimant's average monthly family income for the preceding six months does not exceed the appropriate level set forth in the current Family Income Level Table below, the overpayment shall, except as provided by paragraph (3)(C) of this subdivision, be waived by the department.

(B) Family Income Level Table. Before the first day of July each year, and on the effective date of this regulation, the director shall establish a Family Income Level Table as described below:

For the fiscal year beginning July 1, 1983, the Table shall be computed by multiplying the average annual low income budget amount as issued by the Employment Development Department for fiscal year July, 1982 - June, 1983 (\$16,714) by the change in the Consumer Price Index U. S. City Average for Urban Wage Earners and Clerical Workers for the period May, 1982 - April, 1983. The figure shall be multiplied by the percentages in the following Table:

Persons in Family	Gross Monthly Income	1
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40% of average for family of 4 2 62% of average for family of 4 3 83% of average for family of 4 4 100% of average for family of 4 5 119% of average for family of 4 6 138% of average for family of 4 For each additional person add 19% of average for family of 4

To produce a Family Income Level Table for each fiscal year thereafter, the director shall repeat the process described above, using the estimated low income budget figure for immediately preceding fiscal year and the change in the above-specified Consumer Price Index for the immediately preceding May to April. (C) Waiver-Assets and Unusual Circumstances. If a claimant's average monthly family income for the preceding six months does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or a family member, clothing and tools of the trade. If a claimant's average monthly family income for the preceding six months exceeds the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any unusual circumstances such as medical expenses or other necessary living expenses which would cause recovery of an overpayment to place an extraordinary hardship on the claimant or the claimant's family. EXAMPLE 6. A claimant is married and has two children at home. The average monthly family income for the preceding six months was below the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has no readily available assets. Recovery of the overpayment will cause extraordinary hardship and the overpayment is waived.

EXAMPLE 7. A claimant is married and has two children at home. The average monthly

family income for the preceding six months was in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings, and a car, but no other assets, and no unusual expenses or debts. The overpayment is not waived. EXAMPLE 8. Assume the same facts as in Example 7, except that the claimant pays \$100 a month in outstanding medical bills which total \$5,000. Recovery of the overpayment will cause extraordinary hardship and the overpayment is waived. (D) Recovery-Current Family Income and Assets. If the department has not waived the overpayment, the department shall establish, by mutual agreement if possible, a repayment schedule at the time of the overpayment determination. In establishing the repayment schedule the department shall consider the current family income and assets of the claimant, as follows: (i) If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought, exceeds the appropriate amount set forth in the current Family Income Level Table above, the excess for that period is available to repay the overpayment unless there are unusual circumstances such as medical expenses or other necessary living expenses. In cases of such unusual circumstances, the repayment amount shall not be less than \$10 per month. The department shall also consider any liquid or readily convertible assets as set forth in subparagraph (ii) below. (ii) If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or

a family member, clothing, and tools of the trade. EXAMPLE 9. The claimant is married and has two children at home. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was \$12 in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings therein, and a car, but no other assets, and has no unusual expenses or debts. The repayment schedule may provide for a maximum payment of \$12 per month. EXAMPLE 10. The claimant is married but has no children. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was below the allowable gross monthly income for a family of 2 using the current Family Income Level Table. Claimant also has stocks valued at \$300. The repayment schedule may provide for a minimum payment of \$10 per month and a lump sum recovery for the resale value of the stocks, less costs of sale. EXAMPLE 11. Assume the same facts as in Example 9, except that the claimant pays \$40 monthly in outstanding medical bills which total \$500. The repayment schedule may provide for a minimum payment of \$10 per month.

**(A)**

Waiver--Family Income. The gross income of the claimant and his or her spouse which is available to the claimant shall be considered to determine whether a reasonable standard of living exists in accord with the family income levels set forth in the current Family Income Level Table below. As used in this section, "income" includes income from all sources including, but not limited to, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits, and disability benefits. If the claimant's average monthly family income for the preceding six months does not exceed the appropriate level set forth in the current Family Income Level Table below, the overpayment shall, except as provided by paragraph (3)(C) of this subdivision, be waived by the department.

**(B)**

Family Income Level Table. Before the first day of July each year, and on the effective date of this regulation, the director shall establish a Family Income Level Table as described below:

For the fiscal year beginning July 1, 1983, the Table shall be computed by multiplying the average annual low income budget amount as issued by the Employment Development Department for fiscal year July, 1982 - June, 1983 (\$16,714) by the change in the Consumer Price Index U. S. City Average for Urban Wage Earners and Clerical Workers for the period May, 1982 - April, 1983. The figure shall be multiplied by the percentages in the following Table:

Persons in Family	Gross Monthly Income
1	40% of average for family of 4
2	62% of average for family of 4
3	83% of average for family of 4
4	100% of average for family of 4
5	119% of average for family of 4
6	138% of average for family of 4

For each additional person add 19% of average for family of 4 To produce a Family Income Level Table for each fiscal year thereafter, the director shall repeat the process described above, using the estimated low income budget figure for immediately preceding fiscal year and the change in the above-specified Consumer Price Index for the immediately preceding May to April.

**(C)**

Waiver-Assets and Unusual Circumstances. If a claimant's average monthly family income for the preceding six months does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or a family member, clothing and tools of the trade. If a claimant's average monthly family income for the preceding six months exceeds the appropriate amount set forth in the current Family

Income Level Table above, the department shall consider any unusual circumstances such as medical expenses or other necessary living expenses which would cause recovery of an overpayment to place an extraordinary hardship on the claimant or the claimant's family.

EXAMPLE 6. A claimant is married and has two children at home. The average monthly family income for the preceding six months was below the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has no readily available assets. Recovery of the overpayment will cause extraordinary hardship and the overpayment is waived. EXAMPLE 7. A claimant is married and has two children at home. The average monthly family income for the preceding six months was in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings, and a car, but no other assets, and no unusual expenses or debts. The overpayment is not waived. EXAMPLE 8. Assume the same facts as in Example 7, except that the claimant pays \$100 a month in outstanding medical bills which total \$5,000.

Recovery of the overpayment will cause extraordinary hardship and the overpayment is waived.

**(D)**

Recovery-Current Family Income and Assets. If the department has not waived the overpayment, the department shall establish, by mutual agreement if possible, a repayment schedule at the time of the overpayment determination. In establishing the repayment schedule the department shall consider the current family income and assets of the claimant, as follows:(i) If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought, exceeds the appropriate amount set forth in the current Family Income Level Table above, the excess for that period is available to repay the overpayment unless there are unusual circumstances such as medical expenses or other necessary living expenses. In cases of such unusual circumstances, the repayment amount shall not be less than \$10 per month. The department shall also consider any liquid or readily

convertible assets as set forth in subparagraph (ii) below. (ii) If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or a family member, clothing, and tools of the trade. EXAMPLE 9. The claimant is married and has two children at home. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was \$12 in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings therein, and a car, but no other assets, and has no unusual expenses or debts. The repayment schedule may provide for a maximum payment of \$12 per month. EXAMPLE 10. The claimant is married but has no children. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was below the allowable gross monthly income for a family of 2 using the current Family Income Level Table. Claimant also has stocks valued at \$300. The repayment schedule may provide for a minimum payment of \$10 per month and a lump sum recovery for the resale value of the stocks, less costs of sale. EXAMPLE 11. Assume the same facts as in Example 9, except that the claimant pays \$40 monthly in outstanding medical bills which total \$500. The repayment schedule may provide for a minimum payment of \$10 per month.

**(i)**

If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought, exceeds the appropriate amount set forth in the current Family Income Level Table above, the excess for that period is available to repay the overpayment unless there are

unusual circumstances such as medical expenses or other necessary living expenses. In cases of such unusual circumstances, the repayment amount shall not be less than \$10 per month. The department shall also consider any liquid or readily convertible assets as set forth in subparagraph (ii) below.

**(ii)**

If the claimant's family income for the 4-week period immediately preceding the date on which recovery is sought does not exceed the appropriate amount set forth in the current Family Income Level Table above, the department shall consider any liquid or readily convertible assets available to the claimant which may be converted to repay the overpayment without causing extraordinary hardship on the claimant or the claimant's family. Such assets include, but are not limited to, stocks, bonds, interest in mutual funds, cash, and credit union or savings accounts, but shall not include the claimant's home and furnishings therein, automobiles needed for transportation of the claimant or a family member, clothing, and tools of the trade. EXAMPLE 9. The claimant is married and has two children at home. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was \$12 in excess of the allowable gross monthly income for a family of 4 using the current Family Income Level Table. The claimant has a home, furnishings therein, and a car, but no other assets, and has no unusual expenses or debts. The repayment schedule may provide for a maximum payment of \$12 per month. EXAMPLE 10. The claimant is married but has no children. The claimant's family income for the 4-week period immediately preceding the date on which recovery is sought was below the allowable gross monthly income for a family of 2 using the current Family Income Level Table. Claimant also has stocks valued at \$300. The repayment schedule may provide for a minimum payment of \$10 per month and a lump sum recovery for the resale value of the stocks, less costs of sale. EXAMPLE 11. Assume the same facts as in Example 9, except that the claimant pays \$40 monthly in outstanding medical bills which total \$500. The repayment schedule may provide for a minimum payment of \$10 per month.

**(e)**



Information. Whenever the department determines that an overpayment is probable, it shall notify the claimant of the probable overpayment, the claimant's right to request that the department waive the overpayment, and the standards to obtain a waiver of the overpayment. The department shall assist and advise the claimant in meeting his or her obligation to furnish the department with all information necessary for the department to determine whether there is an overpayment, whether the claimant is entitled to waiver of the overpayment and for establishing the repayment schedule.

**(f)**

Adjustment of Repayment Schedule. If at any time a claimant requests the department to adjust his or her repayment schedule, the department shall do so if the claimant demonstrates that there has been a material change in his or her financial condition. If the overpayment interviewer and the claimant cannot agree on the requested adjustment, the field office manager shall prescribe the appropriate repayment schedule adjustment, if any. No administrative appeal is provided from an adjustment of or refusal to adjust a repayment schedule.

**(g)**

Overpayment Notice and Hearing. If the department determines that an overpayment exists, it shall notify the claimant of the amount of the overpayment, the cause of the overpayment, the reasons for denial of waiver if waiver is denied, the terms of the repayment schedule established under subdivision (d)(3)(D) of this section and the right to appeal (see Sections 1377, 2737, 3751, and 4751 of the code) to an administrative law judge, and to a hearing on all issues regarding the overpayment, including any determination denying waiver of the overpayment and the terms of such repayment schedule. When a waiver of an overpayment has become final, it shall not be redetermined in the absence of fraud,

misrepresentation, or willful nondisclosure by the claimant relating to the waiver.