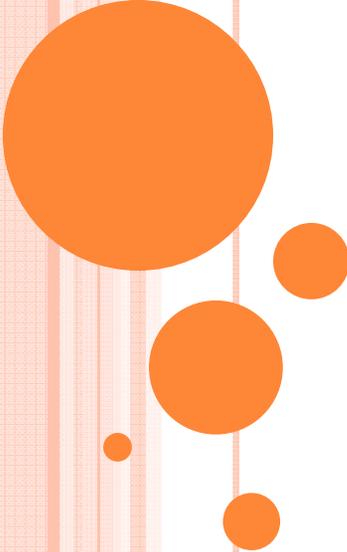




IRORA

INTERSTATE RECIPROCAL OVERPAYMENT RECOVERY ARRANGEMENT



Katie S. Baltensperger
Nebraska Department of Labor

WHAT IS THE IRORA AGREEMENT?

- Agreement among states to collect overpayments of unemployment benefits for each other
- IRORA gives states a standardized approach to recovering overpayments for each other on a cooperative basis



PARTICIPATING STATES

- As of September 20, 2013, there are 43 states:

- Alaska
- Alabama
- Arkansas
- Arizona
- Colorado
- Connecticut
- District of Columbia
- Delaware
- Florida
- Georgia
- Hawaii
- Iowa
- Idaho
- Illinois
- Kansas
- Louisiana
- Maryland
- Minnesota
- Missouri
- Mississippi
- Montana
- North Carolina
- North Dakota
- Nebraska
- New Hampshire
- New Jersey
- New Mexico
- Nevada
- Ohio
- Oklahoma
- Oregon
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- Vermont
- Washington
- Wisconsin
- West Virginia
- Wyoming



MIDDLE CLASS RELIEF AND JOB CREATION ACT OF 2012

- Amended both section 3304(a)(4)(D) of Federal Unemployment Tax Act and section 303(g)(1) of the Social Security Act
- **REQUIRES** states to impose a **MANDATORY** offset on **ANY** unemployment insurance overpayment due to the individual under states Unemployment Insurance law.
- Prior to The Middle Class Tax Relief and Job Creation Act – offsets permitted but not required



SOCIAL SECURITY ACT § 303(G)(1)

- Sec. 303. [42 U.S.C. 503] (a) **The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax under the Federal Unemployment Tax Act[8], includes provision for—**
 - (g)(1) A State *shall* deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction *shall* be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

26 USC § 3304 – APPROVAL OF STATE LAWS

- (4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that-
 - [...]
 - (D) Amounts *shall* be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act



REQUIREMENTS

- Must have 2 Agreements
 - Agreement with Secretary of Labor and the state to offset Federal overpayments (Cross Program Offset Agreement)
 - Agreement to offset overpayments of UC paid under other states' UC laws (IRORA Agreement)
- All of the state's applicable notice and hearing procedures, including provision of information on applying for a waiver of recovery of the overpayment, if provided for in state law, must be followed before a state may begin offsetting overpayments from an individual's current or future UC payments.



RECOMMENDED GUIDELINES AND REGULATIONS

FROM NASWA 2013 IRORA – FEBRUARY 2013

○ **Duties of Requesting State**

- Send the recovering State an IB 8606 (request) for overpayment recovery assistance that includes:
 - Certification that the overpayment is legally collectable under the requesting State's law;
 - Certification that the determination is final and that any right to postponement of recoupment has been exhausted or has expired;
 - A statement as to whether the State is participating in the Cross-Program Overpayment Recovery Agreement (CPORA) with the U.S. Secretary of Labor; and
 - A copy of the initial overpayment determination and a statement of the outstanding balance.
- Send notice of this request to the claimant; and,
- Send to the recovering State a new outstanding overpayment balance whenever the requesting State receives any amount of repayment from a source other than the recovering State.



CONTINUED...

○ Duties of Recovering State:

- Issue an overpayment recovery notice to the claimant that includes, at a minimum:
 - The statutory authority for the offset;
 - The opportunity to appeal the offset of benefits, only if the Recovering State's UI law allows for an appeal hearing on the recovery of overpayments of regular unemployment compensation paid by such State;
 - The name of the State requesting recoupment;
 - The date of the original overpayment determination;
 - Type of overpayment (fraud or non-fraud);
 - Program type (UI, UCFE, UCX, TRA, etc.);
 - Total amount to be offset;
 - The amount to be offset weekly; and
 - Instructions that any questions about the overpayment amount should be referred to the requesting state



CONTINUED...

- Duties of the Recovering State
 - Offset benefits payable for each week claimed in the amount determined under State law;
 - Notify the claimant of the amount offset;
 - Prepare and forward no less than once a month, a payment representing the amount recovered made payable to the requesting State, except as provided in section (3) below;
 - Retain a record of the overpayment balance;
 - The recovering State shall not redetermine the original overpayment determination; and
 - It is the expectation that the recovering State will recover across benefit years and programs
 - Refer to the Interstate Benefit Payment Control section of the ET Handbook No. 392, *Handbook for Interstate Claimstaking*, for the priorities of offsetting overpayments.



CONTINUED...

- Combined Wage Claims
 - Recovery of Outstanding Overpayment in Transferring State
 - The paying State shall:
 - Offset any outstanding overpayment in a transferring State(s) prior to honoring a request from any other "participating State" under this arrangement.
 - Credit the deductions against the Statement of Benefits Paid to Combined Wage Claimants, Form IB-6, or forward a payment to the transferring State as described in this Arrangement under "Duties of Recovering State" found in IV.B.2(d).
 - Refer to the Interstate Benefit Payment Control section of the ET Handbook No. 392, *Handbook for Interstate Claimstaking*, for the priorities of offsetting overpayments.



CONTINUED...

○ Combined Wage Claims

- Withdrawal of Combined Wage Claim After Benefits Have Been Paid.
- Withdrawal of a combined wage claim after benefits have been paid shall be honored only if the combined wage claimant has repaid any benefits paid or authorizes the new liable State to offset the overpayment.
 - The Paying State shall issue an overpayment determination and forward a copy, together with an overpayment recovery request and an authorization to offset, to the liable State.
 - The Recovering State shall:
 - Prioritize the offset of overpayments as described in the “Interstate Benefit Payment Control” Section of the ET Handbook No. 392, *Handbook for Interstate Claimstaking*
 - Offset the total amount of any overpayment, resulting from the withdrawal of a Combined Wage Claim, prior to the release of any payments to the claimant;
 - Offset the total amount of any overpayment, resulting from the withdrawal of a Combined Wage Claim, prior to honoring a request from any other participating State under this arrangement;
 - Provide the claimant with a notice of the amount offset; and
 - Prepare and forward a payment representing the amount recovered to the requesting State as described in this Arrangement under “Duties of Recovering State” found in IV.B.2(d).



CROSS-PROGRAM OVERPAYMENT RECOVERY AGREEMENT OFFSETS

- The Recovering State shall offset benefits payable under a State unemployment compensation program to recover any benefits overpaid under a Federal unemployment compensation program (as described in the Recovering State's Agreement with the Secretary of Labor) and vice versa, in the same manner as required under subsection IV.B.2 and IV.B.3, as appropriate, when both the Recovering State and Requesting State have entered into an Agreement with the U.S. Secretary of Labor to implement Section 303(a) of the Social Security Act. For more on the CPORA, please see Unemployment Insurance Program Letter NO. 30-05, Interstate and Combined Wage Claim Overpayment Detection, Recovery, and Reporting.



ET HANDBOOK 392

- **21. Priorities of Overpayment Offset.**
- **(a) Recovery of Interstate Overpayments.** When a SESA receives a request for recoupment from more than one State, after any intrastate overpayment has been satisfied, the oldest overpayment determination will be given priority except as in (b) and (c) below.
- **(b) Recovery of Outstanding Overpayment in a Combined Wage Claim Transferring State.** The paying State shall offset any overpayment outstanding in a transferring State(s) prior to honoring a request from any other State, except as described in (c) below. If there is an overpayment in more than one transferring State, a pro-rated portion of the offset should be applied to each participating State's overpayment by the paying State. The paying State shall credit the deductions against the Statement of Benefits Paid to Combined Wage Claimants, Form IB-6, or immediately forward a check to the transferring State.
- **(c) Recovery of Overpayments that Result from the Withdrawal or Cancellation of a Combined Wage Claim.** When a combined claim is cancelled or withdrawn and the condition for withdrawal is that the claimant repays the benefits paid in full or authorizes the State against which a substitute claim is filed to offset the overpayment, the State accepting the substitute or subsequent claim under such conditions will offset the overpayment prior to the release of any payments to the claimant.



NEBRASKA'S PROCEDURE

- 219 Nebraska Administrative Code 12
 - Adopted 1988
 - Similar to the recommended guidelines



REPORT FOR PERIOD ENDING JUNE 30, 2013

- Nebraska
 - \$524,302 – Recovered
 - \$634 – Recovered by Other States
 - \$0 – Recovered for Other States



ISSUES

- Knowledge about unemployment insurance benefits claim in new State
- Communication and coordination between States
- State unemployment insurance benefit laws vary from State to State
 - The NASWA UI IB Subcommittee worked with USDOL and Xerox to put the paper IB8606 OP request into a web application. The IB8606 process has the requesting State sent a UI OP request (along with determination gone final) to a recovering State to collect on behalf of the requesting state.
 - The NASWA UI IB Subcommittee has been working with USDOL and Xerox, the UI ICON contractor, for a new IB 8606, Interstate Request for Overpayment Recovery, web application. The UI ICON web application will be available to states in October 2013. This application is designed to help states electronically request UI overpayment assistance. States will receive notification of the monthly Interstate Overpayment Report via secure UImail, since the file will contain claimant Social Security Numbers. The overpayment information comes from the State Identification Inquiry (SID) program.
 - Thank you Brian Langley



KATIE BALTENSBERGER
NEBRASKA DEPARTMENT OF LABOR
KATIE.BALTENSBERGER@NEBRASKA.GOV
402-471-9912

