

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA

INTERPRETATION NO. 190

TO: R. F. Martin, Director

FROM: W. D. Holoman, Chief Counsel

RE: Interpretation of the Employment Security Law of North Carolina –
Section 96-15(b)(1), Redetermination of an Initial Monetary
Determination

With respect to your request for an interpretation of Section 96-15(b)(1) of the Employment Security Law, it will be noted that it deals only with initial or monetary determinations, and it does not deal with any other kind of determinations; therefore, in answer to the first question, the one-year statute of limitations imposed by Section 96-15(b)(1) will apply and no redetermination may be made after one year. This is because such initial determination was a monetary determination as is contemplated by such section. Irrespective of this section, and even though a year has expired and no redetermination can be made, and it is determined that we have erroneously or improperly paid a claimant benefits to which he was not entitled, we should not charge such to the employer's account as this section deals only with initial determinations and not with the charging provisions of the law.

In answer to the second question, it appears that the one-year statute of limitations imposed by Section 96-15(b)(1) would apply to wages erroneously credited to an individual's account as this would be a monetary or initial determination contemplated by such section.

In answer to the third question, the one-year statute of limitations will likewise apply to a monetary determination of eligibility even though the determination of benefit status was made as a result of a non-disclosure or misrepresentation of a material fact as the determination referred to is an initial or monetary determination.

The one-year statute of limitations contained in Section 96-15(b)(1) will not apply if it appears that a claimant willfully and knowingly made a non-disclosure or misrepresentation of a material fact, as this would constitute fraud. This one-year statute does not apply in cases other than those involving an initial or monetary determination.

Adopted as an official Interpretation of the Commission on December 1, 1964.