

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA

INTERPRETATION NO. 266

TO: Employment Security Commission

FROM: T. S. Whitaker, Chief Counsel

SUBJECT: Authority to Reconsider State UI Claims

In order to implement their revised interpretation of the effective date of Section 1430(a) of the Omnibus Trade and Competitiveness Act (OTCA) of 1988 (the 1988 Amendments), the United States Department of Labor as required by Section 5.b. of General Administration Letter No. 15-90 the North Carolina Employment Security Commission to review the authority contained in the North Carolina Employment Security Law (Chapter 96 of the North Carolina General Statute) to re-determine or reconsider unemployment insurance benefit claims. The United States Department of Labor has also required the State to apply such authority to Trade Readjustment Allowances (TRA) and Trade Adjustment Assistance (TAA) claims under the same conditions that are applied to State unemployment insurance benefit claims.

A review of the North Carolina Employment Security Law reveals that North Carolina General Statute 96-15(b)(1) provides, inter alia, that at any time within one year from the date of the making of an initial determination, the Employment Security Commission on its own initiative may reconsider such determination if it finds that an error in computation or identity has occurred in connection therewith or that additional wages pertinent to a claimant benefit status have become available, or if such determination of benefit status was made as a result of a non-disclosure or misrepresentation of a material fact. There are no other provisions in the North Carolina Employment Security Law providing for any authority to re-determine or reconsider unemployment insurance benefit claims.

This Interpretation is issued to clarify the authority contained in the Employment Security Law to re-determine and reconsider unemployment insurance benefits and to serve as the certification required in General Administration Letter No. 15-90.

Adopted as an official Interpretation by the Commission on March 1, 1991.