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**IDAPA 09
TITLE 01
CHAPTER 04**

09.01.04 - UNEMPLOYMENT INSURANCE BENEFIT FRAUD AND OVERPAYMENT RULES

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.01.04, "Unemployment Insurance Benefit Fraud and Overpayment Rules." (4-11-06)

02. Scope. With respect to the Idaho Department of Labor's administration of the Unemployment Insurance Program, these rules address fraud prevention measures, collection of overpayments, and waivers of overpayments. (4-11-06)

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. Brochures explaining various programs administered by the Department are also available at the above address. (4-11-06)

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Section 72-1368, Idaho Code, and IDAPA 09.01.06, "Rules of the Appeals Bureau." (3-19-99)

004. INCORPORATED BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-10)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principle place of business of the Department of Labor is in Boise, Idaho. (7-1-10)

01. Street Address and Hours. The office is located at 317 W. Main St., Boise, Idaho 83735 and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. (7-1-10)

02. Mailing Address. The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho 83735. (7-1-10)

03. Telephone. The telephone number of the office is (208) 332-3570. The facsimile number of the office is (208) 334-6455. (7-1-10)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (7-1-10)

007. -- 009. (RESERVED)

010. DEFINITIONS.

These terms shall have the following meanings when used in these rules, in interpretations, in forms, and in other official documents issued by the Department of Labor. (4-11-06)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with the recovery of overpayments and at the discretion of the Director, no delinquency or credit will be issued or carried on the books for overpayments for this amount or less. Ref. Sec. 72-1369, Idaho Code. (4-11-06)

02. Fraud Overpayment. Is defined as an established overpayment resulting from a determination that the claimant willfully made a false statement or willfully failed to report a material fact in order to obtain benefits.

Ref. Sec. 72-1369, Idaho Code.

(4-11-06)

03. Nonfraud Overpayment. Is defined as any established overpayment other than an overpayment resulting from a determination that a claimant made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. (4-11-06)

011. (RESERVED)

012. MATERIALITY, FRAUD DETERMINATIONS.

For purposes of Section 72-1366(12), Idaho Code, a fact is material if it is relevant to a determination of a claimant's right to benefits. All information a claimant is asked to provide when applying for unemployment benefits or when making a continued claim report is material and relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Section 72-1366, Idaho Code. (4-4-13)

013. FRAUD BENEFIT REPAYMENT.

For purposes of Section 72-1366(12), Idaho Code, "any sums received for any week" means all unemployment benefits received in any week it is determined that the claimant received benefits as a result of a willful false statement or failure to report a material fact in order to obtain benefits. (4-4-13)

014. WILLFUL STANDARD, FRAUD DETERMINATIONS.

For purposes of Section 72-1366(12), Idaho Code, to willfully make a false statement or to willfully fail to report a material fact to obtain benefits requires a purpose or willingness to commit the act or make the omission referred to. A specific intent to violate law is not required. (4-11-15)

015. -- 039. (RESERVED)

040. RECOVERIES.

Unless the overpayment resulted from a determination that the claimant willfully made a false statement or willfully failed to report a material fact, overpayments shall be deducted from any future benefits payable. Ref. Secs. 72-1369 and 72-1366, Idaho Code. (4-11-06)

041. PARTIAL PAYMENTS OF AMOUNTS OWED THE DEPARTMENT.

Upon the Department's receipt of a partial payment of an overpayment or overpayments of unemployment insurance benefits and accrued interest and penalties thereon, the Department shall, unless other arrangements have been made with the debtor and approved by the Department, apply the partial payment to the amounts owed as follows: (4-11-06)

01. Interest. The partial payment shall be applied first to any accrued interest of the amounts due, starting with the oldest accrued interest; (4-11-06)

02. Penalties. After any accrued interest has been paid in full, the partial payment shall be applied next to any assessed penalties, starting with the oldest assessed penalty; (4-11-06)

03. Fraud Overpayments. After all accrued interest and assessed penalties have been paid in full, the partial payment shall be applied next to any fraud overpayments due, starting with the oldest fraud overpayment; and (4-11-06)

04. Nonfraud Overpayments. After all fraud overpayments have been paid in full, the partial payment shall be applied next to any nonfraud overpayments, starting with the oldest nonfraud overpayment. Ref. Sec. 72-1369, Idaho Code. (4-11-06)

042. -- 049. (RESERVED)

050. WAIVER OF REPAYMENT.

A Determination of Waiver will be made upon the written request of any interested party; except that an appeals examiner or the Industrial Commission may consider the issue of waiver of repayment on their own motion. A

request for a Determination of Waiver must be made within fourteen (14) days of the date of mailing of the Determination of Overpayment or Revised Determination of Overpayment, or within fourteen (14) days of the date of electronic transmission to an electronic-mail address approved by the Department of the Determination of Overpayment or Revised Determination of Overpayment. If a party establishes by a preponderance of the evidence that notice of a Determination of Overpayment or Revised Determination of Overpayment was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, or that notice of a Determination of Overpayment or Revised Determination of Overpayment was not transmitted to an electronic-mail address approved by the Department within fourteen (14) days of the date of transmission because of error on the part of the Department, the period for filing a timely request for Determination of Waiver shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1369, Idaho Code. (7-1-10)

01. Waiver Determination. A Determination of Waiver shall become final unless, within fourteen (14) days after the date of mailing or of electronic transmission to an electronic-mail address approved by the Department, an appeal is filed with the Department of Labor. If a party establishes by a preponderance of the evidence that notice of a Determination of Waiver was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, or that notice of a Determination of Waiver was not transmitted to an electronic-mail address approved by the Department within fourteen (14) days of the date of transmission because of error on the part of the Department, the period for filing a timely request for an appeal shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1369, Idaho Code. (7-1-10)

051. -- 999. (RESERVED)

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