ALABAMA DEPARTMENT OF WORKFORCE
ADMINISTRATIVE CODE

CHAPTER 480-4-4
INVESTIGATION AND COLLECTION

480-4-4-.03 Determination And Collection Of Overpayments.

(1) A determination that a claimant, by reason of claimant's own fault, fraud, misrepresentation, failure to report or disclose a material fact, departmental error or payment of benefits pending appeal that finally results in disqualification, has received benefits to which the claimant was not entitled, shall be made by the Director on the basis of such facts as are obtained.

(2) Whenever it is found that a claimant has received benefits, and has been assessed with an overpayment, no further benefits shall be paid to such claimant until the total amount of overpayment has been reimbursed by cash or offset, or liquidated in a manner provided for in these rules.

(3) The account of an employer who is required, or elects, to make payments in lieu of contributions, upon recovery either by cash or offset shall be credited in the amount of the recovered overpayment that is attributable to wages paid such employer.

(4) The cancellation of benefits, by penalty or reduction Code of Ala. 1975, §§525-4-78 and 25-4-145, will not affect the amount of the overpayment or the balance due.

(5) Credit against the overpayment by offset shall be made only when a payable week of benefits is claimed and has been offset against the overpayment. Once a week of benefits has been used to offset an overpayment, the offset is final. However, if the week used to offset is later determined to be invalid an overpayment will be established for that week and an adjustment will be made to the previous offset.

(a) Overpayments of benefits shall be recovered by offset from benefits otherwise payable under the unemployment compensation law of another state, and overpayments of benefits as determined under the unemployment law of the other state shall be recovered by offset from benefits otherwise payable in a manner provided for in these rules.

1. A request to appeal the request from another state to offset an overpayment of benefits must be received within fifteen (15) days of the date the notice of offset recovery was mailed by the department. Appeal rights to Alabama are limited to the department’s authority to offset the overpayment. Matters in defense to the offset

including but not limited o the accuracy may be presented at the hearing, however, issues that have been adjudicated in that state and have become final will not be reconsidered. Any questions concerning the overpayment should be directed to the state in which the overpayment exists. If a written request for a hearing is not received from the claimant within fifteen (15) days of the mailing of such notices, such individual will have waived his/her opportunity for appeal.

(b) Overpayment of benefits shall be recovered by setoff of Alabama Income Tax Refund due any individual taxpayer who has an outstanding overpayment account as provided by these rules. Setoff of an Alabama Income Tax Refund may not be used to offset an overpayment in another state.

1. A request to protest a setoff must be received in writing from the claimant within thirty (30) days from the date the setoff notification letter is mailed by the Department of Revenue. The claimant must provide a copy of the setoff notification letter and provide in writing his/her correct address of record and telephone number.

(i) If a claimant and his/her spouse have filed a joint Alabama State Income Tax return, the spouse may be entitled to his/her share of the joint refund. If the spouse was employed, received income, paid withholding and/or estimated tax payments, and had no legal obligation to repay the overpayment, the spouse may request an administrative review of the setoff to receive his/her share of the joint refund. The request must be received in writing from the spouse within thirty (30) days from the date the offset notification letter was mailed by the Department of Revenue. If such a request is not received within thirty (30) days, the individual will have waived the opportunity for an administrative review and/or an appeal hearing. A clear legible copy of his/her Alabama State Income Tax Form 40 or 40A, all W-2 Forms, and other supporting documents that were filed with the return must be forwarded to the department with the request.

(ii) In a case where the spouse has no legal obligation to repay the overpayment, a calculation will be made to determine the spouse’s share of the joint return. Both spouses’ gross wages appearing on their Alabama State Income Tax Form will be added together to obtain the total gross amount. The taxpayer’s gross wages listed on the state tax form, for whom no debt is claimed, will be divided by the total gross wages to obtain a percentage. This percentage will be applied to the setoff amount owned

on the setoff notification letter mailed by the Department of Revenue. If the amount thus derived is not a multiple of $1.00, fractional parts of $1.00 in excess of $.50 shall be rounded to the next higher multiple of $1.00 and fractional parts of $1.00 which are $.50 or less shall be dropped to the next lower multiple of $1.00. The spouse who has no legal obligation to repay the overpayment will receive his/her prorated share of the refund. If the taxpayer is dissatisfied with this administrative review, he/she may request an appeal hearing before the referee. The request for a hearing must be in written and received by the Alabama Department of Industrial Relations within fifteen (15) days of the date of the administrative review refund determination is mailed to the taxpayer's address of record. If the written request for a hearing is not received within fifteen (15) days following the date the administrative review refund determination is mailed, the taxpayer will have waived his/her opportunity for an appeal hearing.

2. Appeal rights are limited to the department's right to receive a setoff of an Alabama Income Tax refund from the Department of Revenue, the accuracy of the amount of the setoff, and/or the right of the spouse against whom no debt is claimed to receive a prorated refund on a joint return. Matters in defense of the setoff to the accuracy of the setoff may be presented at the hearing. Any questions concerning the overpayment should be directed to the Benefit Payment Control Section within the department.

3. If the individual(s) is dissatisfied with the final determination resulting from the appeal, the individual may appeal the final determination to the circuit court in the county in which the debtor resides by filing a notice of appeal with the clerk or register of the circuit court within thirty (30) days from the date the appeal's decision was mailed by the department.

4. When all appeal rights have expired, the amount of the setoff shall be credited to the outstanding overpayment balance. A departmental receipt will be forwarded to the individual's address of record.

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Statutory Authority: Code of Ala. 1975, §§25-2-7, 25-2-8, 25-4-111.
History: Effective: 9/30/82. Amendment Effective: 2/27/84. This rule is intended to implement Code of Ala. 1975, §§25-4-91, 25-4-92, 25-4-134 and 24-4-143. **Amended:** Filed September 10, 1998; effective October 15, 1998.