

EMPLOYMENT DEVELOPMENT DEPARTMENT

**Amendment of Title 22, California Code of Regulations (CCR)
Sections 455.5-6, 455.5-7, and 455.5-8**

**COMBINING WAGES FROM TWO OR MORE STATES FOR
UNEMPLOYMENT INSURANCE CLAIMS**

Text of Proposed Amendments

NOTE: Language to be deleted is shown in ~~strikeout~~ format; language to be added is shown in underline format.

AMEND SECTION 455.5-6 TO READ AS FOLLOWS:

§ 455.5-6. Definitions.

As used in Sections 455.5-1 through 455.5-13 of these regulations and for the purpose of this arrangement and the procedures issued to effectuate it:

(a) "State" includes the States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, and includes the Virgin Islands ~~effective on January 1, 1978.~~

(b) "State agency" means the agency which administers the unemployment compensation law of a state.

(c) "Combined-wage claim" means a claim filed under this arrangement.

(d) "Combined-wage claimant" means a claimant who has covered wages under the unemployment compensation law of more than one state and who has filed a claim under this arrangement.

(e) "Arrangement" and "Interstate Arrangement" means the Interstate Arrangement for Combining Employment and Wages described in Section 455.5-1 of these regulations.

(f) "Paying state" means: a single State against which the claimant files a combined-wage claim, if the claimant has wages and employment in that State's base period(s) and the claimant qualifies for unemployment benefits under the unemployment compensation law of that State using combined wages and employment.

~~—(1) The state in which a combined-wage claimant files a combined-wage claim if the claimant qualifies for unemployment benefits in that state on the basis of combined employment and wages.~~

~~—(2) If the state in which a combined-wage claim is filed is not the paying state under the criterion set forth under paragraph (1) of this subdivision, or if the combined-wage claim is filed in Canada, then that state where the combined-wage claimant was last employed in covered employment among the states in~~

~~which the claimant qualified for unemployment benefits on the basis of combined employment and wages.~~

(g) "Transferring state" means a state in which a combined-wage claimant had covered employment and wages in the base period of a paying state, and which transfers such employment and wages to the paying state for its use in determining the benefit rights of such claimant under its law.

(h) "Employment" means all services which are covered under the unemployment compensation law of a state, whether expressed in terms of weeks of work or otherwise.

(i) "Wages" means all remuneration for "employment" as defined by subdivision (h) of this section.

(j) "Secretary" means the Secretary of Labor of the United States.

(k) "Base period" and "benefit year" means the base period and benefit year applicable under the unemployment compensation law of the paying state.

NOTE: Authority cited: Sections 305 and 306, Unemployment Insurance Code.
Reference: Section 455.5, Unemployment Insurance Code.

AMEND SECTION 455.5-7 TO READ AS FOLLOWS:

§ 455.5-7. Election to File a Combined-Wage Claim.

(a) Any unemployed individual who has had employment covered under the unemployment compensation law of two or more "states," whether or not he or she is monetarily qualified under one or more of them, may elect to file a combined-wage claim. He or she may not so elect, however, if he or she has established a benefit year under any state or federal unemployment compensation law and:

- (1) His or her benefit year has not ended; and
- (2) He or she still has unused benefit rights based on such benefit year.

(b) For the purposes of this arrangement, a claimant shall not be considered to have unused benefit rights based on a benefit year which he or she has established under a state or federal unemployment compensation law if:

- (1) He or she has exhausted his rights to all benefits based on such benefit year; or
- (2) His or her rights to such benefits have been postponed for an indefinite period or for the entire period in which benefits would otherwise be payable; or
- (3) Benefits are affected by the application of a seasonal restriction.

(c) If an individual elects to file a combined-wage claim, all employment and wages in all states in which he or she worked during the base period of the paying state must be included in such combining, except employment and wages which are not transferable under subdivision (b) of Section 455.5-9 of these regulations.

(d) Such a potential combined-wage claimant may withdraw his or her combined-wage claim within the period prescribed by the law of the paying state for filing an appeal, protest, or request for redetermination (as the case may be) from the monetary determination of the combined-wage claim, if he or she either:

- (1) Repays in full any benefits paid to him or her thereunder; or
- (2) Authorizes each state against which he or she files a substitute claim for benefits to withhold and forward to the paying state a sum sufficient to repay such benefits.

(e) If the combined-wage claimant files his or her claim in a state other than the paying state, he or she shall do so pursuant to the Interstate Benefit Payment Plan. (See Sections 455-1 through 455-9 of these regulations.)

(f) If a State denies a combined-wage claim, it must inform the claimant of the option to file in another State in which the claimant has wages and employment during that State's base period(s).

NOTE: Authority cited: Sections 305 and 306, Unemployment Insurance Code.
Reference: Section 455.5, of the Unemployment Insurance Code.

AMEND SECTION 455.5-8 TO READ AS FOLLOWS:

§ 455.5-8. Responsibilities of the Paying State -Transfer of Employment and Wages -Payment of Benefits.

(a) The paying state shall request the transfer of a combined-wage claimant's employment and wages in all states during its base period, and shall determine his or her entitlement to benefits (including additional benefits, extended benefits and dependents' allowances when applicable) under the provisions of its law based on employment and wages in the paying state, ~~if any,~~ and all such employment and wages transferred to it hereunder. The paying state shall apply all the provisions of its law to each determination made hereunder, ~~even if the combined-wage claimant has no earnings in covered employment in that state,~~ except that the paying state may not determine an issue which has previously been adjudicated by a transferring state. Such exception shall not apply, however, if the transferring state's determination of the issue resulted in making the combined-wage claim possible under paragraph (2) of subdivision (b) of Section 455.5-7 of these regulations. If the paying state fails to establish a benefit year for the combined-wage claimant, or if he or she withdraws his or her claim as provided herein, it shall return to each transferring state all employment and wages.

(b) Notices of Determination. The paying state shall give to the claimant a notice of each of its determinations on his or her combined-wage claim that he or she is required to receive under the Secretary's Claim Determinations Standard and the contents of such notice shall meet such Standard. When the claimant is filing his or her combined-wage claims in a state other than the paying state, the paying state shall send a copy of each such notice to the local office in which the claimant filed such claims.

(c) Redeterminations.

(1) Redeterminations may be made by the paying state in accordance with its law based on additional or corrected information received from any source, including a transferring state, except that such information shall not be used as a basis for changing the paying state if benefits have been paid under the combined-wage claim.

(2) When a determination is made, as provided in paragraph (a) of this section, which suspends the use of wages earned in employment with an educational institution during a prescribed period between successive academic years or terms or other periods as prescribed in the law of the paying state in accordance with Section 3304(a)(6)(A)(i)-(iv) of the Internal Revenue Code of 1954, the paying state shall furnish each transferring state involved in the combined-wage claim an adjusted determination used to recompute each state's proportionate share of any charges that may accumulate for benefits paid during the period of suspended use of school wages. Wages which are suspended shall be retained by the paying state for possible future reinstatement to the combined-wage claim and shall not be returned to the transferring state.

(d) Appeals.

(1) Except as provided in paragraph (3) of this subdivision, where the claimant files his or her combined-wage claim in the paying state, any protest, request for redetermination or appeal shall be in accordance with the law of such state.

(2) Where the claimant files his or her combined-wage claim in a state other than the paying state, or under the circumstances described in paragraph (3) of this subdivision, any protest, request for determination or appeal shall be in accordance with the Interstate Benefit Payment Plan. (See Sections 455-1 through 455-9 of these regulations.)

(3) To the extent that any protest, request for redetermination or appeal involves a dispute as to the coverage of the employing unit or services in a transferring state, or otherwise involves the amount of employment and wages subject to transfer, the protest, request for redetermination or appeal shall be decided by the transferring state in accordance with its law.

(e) Recovery of Prior Overpayments. If there is an overpayment outstanding in a transferring state and such transferring state so requests, the overpayment shall be deducted from any benefits the paying state would otherwise pay to the claimant on his or her combined-wage claim except to the extent prohibited by the law of the paying state. The paying state shall transmit the amount deducted to the transferring state or credit the deduction against the transferring state's required reimbursement under this arrangement. This subdivision shall apply to overpayments only if the transferring state certifies to the paying state that the determination of overpayment was made within three years before the combined-wage claim was filed and that repayment by the claimant is legally required and enforceable against him or her under the law of the transferring state.

(f) Statement of Benefit Charges.

(1) At the close of each calendar quarter, the paying state shall send each transferring state a statement of benefits charged during such quarter to such state as to each combined-wage claimant.

(2) Except as provided in paragraphs (c)(2), (f)(3), and (f)(5) of this regulation, each such charge shall bear the same ratio to the total benefits paid to the combined-wage claimant by the paying state as his or her wages transferred by the transferring state bear to the total wages used in such determination. Each such ratio shall be computed as a percentage, to three or more decimal places.

(3) Charges to the transferring state shall not include the costs of any benefits paid which are funded or reimbursed from the Federal Unemployment Benefits and Allowances account in the U.S. Department of Labor appropriation, including:

(A) Benefits paid pursuant to 5 U.S.C. 8501-8525; and

(B) Benefits which are reimbursable under Part B of Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub.L. 93-567).

(4) With respect to benefits paid after December 31, 1978, except as provided in paragraphs (3) and (5) of this subdivision, all transferring states will be charged by the paying state for extended benefits in the same manner as for regular benefits.

(5) With respect to new claims established a benefit year effective on and after July 1, 1977, the United States shall be charged directly by the paying state, in the same manner as is provided in paragraphs (1) and (2) of this subdivision, in regard to federal civilian service and wages and federal military service and wages assigned or transferred to the paying state and included in combined-wage claims in accordance with Parts 609, 614, and 616 of Chapter V of Title 20 of the Code of Federal Regulations. With respect to new claims effective before July 1, 1977, prior law shall apply.

NOTE: Authority cited: Sections 305 and 306, Unemployment Insurance Code.
Reference: Section 455.5, Unemployment Insurance Code.
