

HOUSE BILL 4

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2lr0737

(PRE-FILED)

By: **Delegate Watson**

Requested: October 12, 2021

Introduced and read first time: January 12, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance – Recovery of Benefits – Refund of Payments**

3 FOR the purpose of requiring the Secretary of Labor to investigate claims that the
4 Secretary recovered unemployment insurance benefits in excess of the amount
5 included in a notice provided to a claimant and refund the claimant any excess funds;
6 and generally relating to unemployment insurance.

7 BY repealing and reenacting, with amendments,

8 Article – Labor and Employment

9 Section 8–809

10 Annotated Code of Maryland

11 (2016 Replacement Volume and 2021 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Labor and Employment**

15 8–809.

16 (a) The Secretary may recover benefits paid to a claimant if the Secretary finds
17 that the claimant was not entitled to the benefits because:

18 (1) the claimant was not unemployed;

19 (2) the claimant received or retroactively was awarded wages; or

20 (3) due to a redetermination of an original claim by the Secretary, the
21 claimant is disqualified or otherwise ineligible for benefits.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) If the Secretary finds that a claimant knowingly made a false statement or
2 representation or knowingly failed to disclose a material fact to obtain or increase a benefit
3 or other payment under this title, in addition to disqualification of the claimant, the
4 Secretary may recover from the claimant:

5 (1) all benefits paid to the claimant for each week for which the false
6 statement or representation was made or for which the claimant failed to disclose a
7 material fact;

8 (2) a monetary penalty of 15% of all benefits paid to the claimant for each
9 week for which the false statement or representation was made or for which the claimant
10 failed to disclose a material fact; and

11 (3) interest of 1.5% per month on the amount of all benefits paid to the
12 claimant for each week for which the false statement or representation was made or for
13 which the claimant failed to disclose a material fact plus the amount of the monetary
14 penalty accruing from the date that the claimant is notified by the Secretary that the
15 claimant was not entitled to benefits received.

16 (c) (1) If the Secretary decides to recover benefits from a claimant under
17 subsection (a) or (b) of this section, the Secretary shall notify the claimant of:

18 (i) the amount to be recovered;

19 (ii) the basis for the recovery of benefits, including any evidence that
20 the Secretary used to make the determination;

21 (iii) the weeks for which benefits were paid;

22 (iv) the amount of any monetary penalty assessed under subsection
23 (b)(2) of this section and the reason for the assessment of the monetary penalty;

24 (v) the provision of this title under which the Secretary determined
25 that the claimant was ineligible for benefits; and

26 (vi) the appeal rights available to a claimant.

27 (2) The Secretary shall allow a claimant to appeal a determination
28 regarding the recovery of benefits within 30 days after the mailing or other delivery of the
29 notice.

30 (d) (1) The Secretary may recover an amount under subsection (a) of this
31 section:

32 (i) by deduction from benefits payable to the claimant in the future;

1 (ii) in the manner provided in § 8–630 of this title for the collection
2 of past due contributions;

3 (iii) by assessment in the same manner as provided in § 8–629 of this
4 title for the assessment of past due contributions; or

5 (iv) through other reasonable means of collection, including those
6 permitted under:

7 1. State law for the collection of debts owed to the State; or

8 2. federal law.

9 (2) (i) If the Secretary seeks to recover an amount under subsection (a)
10 of this section by assessment, the Secretary shall allow a claimant to elect, within 30 days
11 of the date of the notice of assessment, to have the amount collected by suit instead of by
12 assessment.

13 (ii) The Secretary shall adopt regulations to provide general
14 guidance about:

15 1. the processes under which the Secretary may recover
16 benefits; and

17 2. the application of § 8–629 of this title to the recovery of
18 benefits by assessment under this section.

19 (e) The Secretary may recover an amount under subsection (b) of this section:

20 (1) in the manner provided in § 8–630 of this title for the collection of past
21 due contributions;

22 (2) through other reasonable means of collection, including those permitted
23 under:

24 (i) State law for the collection of debts owed to the State; or

25 (ii) federal law; or

26 (3) if the deduction is made by another jurisdiction under an
27 intergovernmental agreement providing for the recovery of overpaid benefits, by deduction
28 from benefits for which the claimant is eligible in the future under the law of the
29 jurisdiction that made the deduction, excluding the monetary penalty assessed under
30 subsection (b)(2) of this section and interest due under subsection (b)(3) of this section.

31 (f) (1) The Secretary may reconsider a decision to recover benefits under
32 subsection (a) of this section within 1 year after the date that the decision was made.

1 (2) The Secretary may not make a determination to recover benefits under
2 subsection (a) or (b) of this section later than 3 years after the date that the benefits were
3 paid to the claimant.

4 (3) If an amount under subsection (a) or (b) of this section has not been
5 recovered within 5 years after the date of the decision to recover the amount, the Secretary
6 may consider the amount uncollectible.

7 (4) If the Secretary determines that the best interests of the State will be
8 served, the Secretary may adjust, compromise, or settle interest due under subsection (b)
9 of this section or under § 8–1305 of this title.

10 (g) Notwithstanding any other provision of this section, the Secretary may
11 recover, under a governmental offset agreement, an overpayment of benefits paid to any
12 claimant under:

13 (1) the unemployment insurance law of another state; or

14 (2) a federal unemployment insurance benefit program.

15 **(H) (1) FOLLOWING THE RECOVERY OF BENEFITS FROM A CLAIMANT**
16 **UNDER SUBSECTION (A) OR (B) OF THIS SECTION, IF A CLAIMANT NOTIFIES THE**
17 **SECRETARY THAT THE ACTUAL AMOUNT RECOVERED EXCEEDED THE AMOUNT**
18 **STATED IN THE NOTICE PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE**
19 **SECRETARY SHALL:**

20 **(I) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE,**
21 **INVESTIGATE THE CLAIM; AND**

22 **(II) WITHIN 14 DAYS AFTER COMPLETING THE INVESTIGATION,**
23 **REFUND THE CLAIMANT ANY DIFFERENCE BETWEEN THE AMOUNT STATED IN THE**
24 **NOTICE PROVIDED UNDER SUBSECTION (C) OF THIS SECTION AND THE AMOUNT**
25 **ACTUALLY RECOVERED.**

26 **(2) THE SECRETARY SHALL SUBMIT A MONTHLY REPORT TO THE**
27 **GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT**
28 **ARTICLE, THAT INCLUDES:**

29 **(I) THE TOTAL NUMBER OF CLAIMS INVESTIGATED UNDER THIS**
30 **SUBSECTION;**

31 **(II) THE STATUS OF EACH INVESTIGATION;**

32 **(III) THE AMOUNT OF FUNDS IN DISPUTE;**

1 **(IV) THE LEGISLATIVE DISTRICT OF EACH CLAIMANT WHO HAS**
2 **NOTIFIED THE DEPARTMENT OF A DISCREPANCY; AND**

3 **(V) THE DATE ANY CONTESTED FUNDS WERE RETURNED.**

4 **(3) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT**
5 **THIS SUBSECTION.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2022.