

## Fraud/Fault Determinations under §69(a) and 25(j) of Chapter 151A

If a potential overpayment is detected the claimant must be notified of the discrepancy and provided 14 days to respond to fact finding for that issue; a Fraud/Fault determination will also need to be made, so the adjudicator must also send the Fraud/Fault fact finding to the claimant:

Issue Information	
Issue Identification Number: [REDACTED]	Program Type: <b>Regular UI</b>
Issue Status: <b>Pending</b>	Issue Level: <b>Adjudication</b>
Type: <b>Quit</b>	Employer: [REDACTED]
Sub-Type: <b>Military Service</b>	Adjuster: [REDACTED]

  

Add Issue Specific Notes	
<input type="radio"/> Notes	
Add Claimant Fact Finding: Correspondence Preference is Online	
<input type="radio"/> Quit - Military Service	Date Due: Select Value
<input checked="" type="radio"/> Fault / Fraud	Date Due: <b>5 Days</b>
<input type="radio"/> New Issue Type	Type: Select one
	Sub-Type: Select one
	Date Due: Select Value
<input type="radio"/> Custom	Date Due: Select Value
Add Employer Fact Finding: Correspondence Preference is Paper	
<input type="radio"/> Quit - Military Service	Date Due: Select Value
<input type="radio"/> New Issue Type	Type: Select one
	Sub-Type: Select one
	Date Due: Select Value
<input type="radio"/> Custom	Date Due: Select Value

  

Add Notes	
Full Description:	
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The fact finding for the Fault issue has a 5 day deadline as it is considered to be a request for additional information.

If agency staff is contacted by the claimant for assistance in the completion of the Fraud/Fault fact finding, staff should question the claimant about the reason for the overpayment and to what extent the claimant knew or should have known to furnish correct information and then document the claimant's response. For example:

- why did the claimant fail to report earnings for weeks they claimed benefits, or
- why did the claimant certify when filing for benefits that all earnings for that week had been reported when the amount reported was different from the earnings reported by the employer for the same period of time, or

- when completing fact finding why did the claimant indicate they did not violate the policy that lead to their termination when the fact finding demonstrates the claimant did violate the policy, or
- why did the claimant indicate they had been separated from the employer due to a lack of work instead of the actual reason (discharge, quit, etc.)?

### **REMINDER:**

All methods used by claimants to file continued claims for benefits (TeleCert and WebCert) include language informing claimants that failure to report employment and wages while collecting Unemployment Insurance may result in penalties and/or prosecution. Additionally, all signing methods specifically ask the claimant whether he or she worked during the week for which benefits are being claimed. The claimant should be asked why he or she indicated that no work was performed when, in fact, the claimant had worked.

As stated in the Post-Brugman memo, when no claimant's statement is available and reasonable attempts to obtain a statement have been made and documented, a fraud/fault and/or compensable week penalty ***may still be made*** if other evidence shows that the claimant knew of should have known that he or she was furnishing incorrect information, failed to furnish material information or accepted an incorrect UI benefit payment.

Adjudicators must create a word document to be uploaded into the case file that lists the claimant's name, claimant ID, and the justification for assigning the fault/fraud and/or compensable week penalty.

### **Example:**

**“ABC Employer reported the claimant was hired full time on 07/06/2015. The claimant continued to collect benefits for the weeks ending 07/11/15, 07/18/15, and 07/25/15 but failed to report any earnings with ABC Employer for those weeks. The claimant stated they thought they could continue to collect unemployment benefits because they were making less with ABC Employer than they did with the most recent base period employer. The claimant had no answer when asked why they answered “no” to the certification question that asked “Did you work during the week ending\_\_.” This is the claimant’s fifth UI claim. Each UI claim has resulted in an unreported earnings overpayment. Claimant had no answer for why each UI claim has resulted in an unreported earnings overpayment. Reviewed certification process with claimant.”**

If the claimant has failed to report earnings, adjudicators should upload into the case file the certification records for each week the claimant failed to report earnings.

If the adjudicator establishes through fact finding that the overpayment resulted from the claimant failing to furnish information which he/she knew or should have known to be material, the claimant can be assessed the fault/fraud penalty and issued a determination to that effect:

Determination Text - Earnings Summary			
From	To	Amount	Employer Name
8/3/2014	8/9/2014	\$1,033.96	
8/10/2014	8/16/2014	\$0.00	
8/17/2014	8/23/2014	\$0.00	
8/24/2014	8/30/2014	\$0.00	
8/31/2014	9/6/2014	\$0.00	
9/7/2014	9/13/2014	\$1,609.42	
9/14/2014	9/20/2014	\$1,549.62	

**Determination Text**

**Rationale:**  
Earnings will be applied for a potential benefit deduction - No benefits (EOBR)

**Reasonings and Findings:**  
Your earnings are greater than the weekly benefit rate plus the earnings disregard. You are not entitled to benefits for any week in which you earn more than your allowable amount.

**Additional Reasonings and Findings to be printed on the determination:**

**Effect of the Determination:**  
The claimant is not entitled to receive benefits beginning [IssueStartDate] through [IssueEndDate].

**Unemployment Insurance Law:**  
Massachusetts General Law Chapter 151A, §29(a)&1(r)

**Additional notes to be printed on the Claimant's determination:**

**Additional notes to be printed on the Employer's determination:**

Workload Credit: **Yes** Cause Code: **Claimant Error** Claimant Fault/Fraud: **Yes**

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Once the adjudicator indicates “yes” in the “Claimant Fault/Fraud” button, UI Online issues the Fault/Fraud determination:

### Notice of Fault and Fraud Finding

#### Reasoning and Findings

You received an overpayment of unemployment benefits because you gave information that you either knew or reasonably should have known was inaccurate; or because you could have given information, but did not, that you knew, or reasonably should have known, would have been considered important in deciding whether to pay you benefits.

You are disqualified from receiving benefits for the next 3 weeks starting with your next eligible week.

#### Applicable Section of Law

Massachusetts General Law Chapter 151A, §69(a)& 25(j)

#### Effect of this Determination

All Unemployment Insurance benefits determined to have been obtained fraudulently are subject to a one-time penalty assessment equal to 15% of the total amount of the overpayment. Any unpaid balance on fraudulently obtained UI benefits will accrue interest at an annual rate of 12% on any remaining balance of the overpayment. Additionally, any UI benefits that were fraudulently obtained in any week in which you were not totally or partially unemployed may be subject to a compensable week disqualification. A compensable week disqualification means that you will be disqualified for one or more future weeks for which you are otherwise eligible to receive unemployment benefits and you will not receive any future benefits until this penalty is served. Once the compensable week disqualification has been served and you begin receiving benefits, 25% of the weekly amount will be deducted and credited toward any outstanding overpayment balance until it is fully repaid.