Public Meeting on Overpayments, 5/31/06

EMPLOYMENT SECURITY DEPARTMENT
STATE OF WASHINGTON

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TRANSCRIPT OF PROCEEDINGS
of
UNEMPLOYMENT INSURANCE RULES MEETING
OVERPAYMENTS AND EQUITY AND GOOD CONSCIENCE

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Date and Location
May 31, 2006
Wednesday, 1:30 p.m.
Employment Security Department
Training Room 2
212 Maple Park
Olympia, Washington

__________________________________________________________

BE IT REMEMBERED, that a rules meeting was held on overpayments and equity and good conscience on the date and location as set forth above. The Employment Security Department was represented by Juanita Myers, Rules Coordinator.

Reported by:
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| Welcome and Introductions       | 3 |
| Background and Current Processes | 4 |
| Discussion of issues           | 14 |
| Summary of What's Next         | 29 |
PROCEEDINGS

Welcome and Introductions

MS. MYERS: We will go ahead and get started. I do thank you for attending. You are quite a bit outnumbered by staff, but I will go ahead and have introductions done before we get going on this.

My name is Juanita Myers. I am the rules coordinator for the Unemployment Insurance Division. And with me at the table is Cheryl Smith. She is a court reporter who will be transcribing this particular meeting.

And if I could go around and ask the staff to introduce themselves.


MS. NOBLE: Nancy Noble, benefit payment control.

MR. WILKINS: Jim Wilkins, nonmonetary review.

MS. WILL: Jill Will, legislative liaison.

MS. YOUNG: Hilary Young, communications.

MS. MYERS: And if you could just introduce yourself for the record.

MR. PIERSON: Gary Pierson with Talx Corporation from Beaverton, Oregon. We are an agent that represents employers in unemployment compensation.
Public Meeting on Overpayments, 5/31/06

1 Background and Current Processes

2

3 MS. MYERS: Again, thank you for attending.

4 The rules that we are proposing today would amend our
5 existing rules and procedures and policies on overpayments
6 and offers in compromise so that they can conform to a
7 decision -- a published decision of the Court of Appeals
8 that was issued last summer which essentially said that
9 the way the Department was determining eligibility for
10 waivers was an error of law.
11
12 To give you a little background, the Department has
13 kind of gone back and forth on how we determine whether an
14 individual is eligible for a waiver of the overpayment or
15 an offer in compromise.
16
17 As far back as 1958, there was a commissioner's
18 decision that said we would waive all overpayments
19 whenever the claimant wasn't at fault or there wasn't any
20 fraud involved. And that was overturned in 1962 by
21 another commissioner's decision. They specifically
22 overturned that and said that instead, the Department has
23 to consider equity and good conscience when deciding
24 whether the individual is eligible for a waiver. And I
25 have copied a page from that particular decision on orange
26 paper -- I guess, salmon colored paper -- because it has a
27 pretty good discussion there of what the commissioner's
office at the time had ruled the factors that should be considered in determining whether a waiver would be against equity and good conscience. And it had discussions of both those procedures.

Despite this particular decision, though, over the years, collections and processes tightened up and we were giving fewer and fewer waivers and granting even fewer offers in compromise until in 1985 Evergreen Legal Services challenged the Department's procedures. In fact, they did an analysis and found that in one quarter, out of 4,000 overpayments, the Department had waived only 70. And they felt we were interpreting the phrase "equity and good conscience" too strictly. And they felt that the Department should consider the individual's financial circumstances when deciding whether a waiver should be granted.

And, in fact, out of that negotiation in 1985 is where we got the rules that are existing today that say essentially that when we decide whether a waiver will be granted, we will look at, one is financial considerations and/or if there are unusual circumstances where it is kind of broad but it says if we are not to waive the overpayment would be unconscionable. So looking at some extreme circumstances.

The law on waiver, which I have copied for you -- I
have a variety of handouts over here -- I have provided a
copy that basically says that waiver can be granted when
there is no fraud, the claimant did not commit fraud to
get the benefits; the claimant is not at fault for the
overpayment; and an addition in 2003 was that the claimant
cannot have been discharged for misconduct. An offer in
compromise can be provided, but the only restriction can
also be an alternative for the claimant. But the only
restriction on that is the claimant cannot have been
discharged for misconduct. The claimant could have
committed fraud or have been at fault for the overpayment,
but those would be -- certainly the circumstances would be
taken into consideration when determining whether an offer
in compromise would be accepted. But legally, the only
restriction is that it can't be provided for individuals
discharged for misconduct.

In day-to-day use, we call offers in compromise
basically "negotiated settlements" with claimants where we
try to work out -- the Department, Nancy and Linda and
their staff, try to negotiate with the individual to see
how much they can realistically collect from the claimant
based on a variety of circumstances. They look at
financial considerations, the unusual circumstances, if
there is a disability or an illness or a large family size
or the person's traditionally a low-wage earner, what is
the size of the overpayment, and again, what caused the
overpayment and so on. And they also look at are the
costs of collecting the full amount prohibitive. So if
the overpayment is $4,000 and they can negotiate with the
person, the person says, "I can pay $3,500," and they have
already spent five years trying to collect this debt, is
it realistic to try to collect the other $500 or settle
for the $3,500 offer? Which that is fairly standard in
collections is to try to make a realistic assessment.

The decision issued by the Court of Appeals in the
case of Delagrave vs. Employment Security had a number of
findings. First off, it requires -- it says that the Act
requires liberal construction. It says that the Act is to
be liberally construed to the benefit of the claimant.

And the court held that when the Legislature mandates
liberal construction in favor of the worker, the State
should not narrowly interpret provisions to the worker's
disadvantage when the statutory language does not suggest
that such a narrow interpretation is required. They also
said that the equity and good conscience statute does not
limit the circumstances under which the commissioner can
find a waiver is warranted other than as I mentioned, that
the claimant can't have committed fraud, has to be without
fault and can't have committed misconduct or been
discharged for misconduct.
And as I mentioned earlier, what they said is to the extent that the commissioner ruled that a waiver for equity and good conscience is limited to the circumstances which we expressly identified in our rule was an error of law, that limiting the circumstances where there is no limit in the statute exceeds our rule-making authority and essentially that we couldn't focus primarily on financial circumstances.

And, in fact, if you read the Delagrave decision, there was never an argument made that the claimant could not afford to pay the amount back. The entire argument hinged around whether it was fair to require him to pay the amount back based on consideration of the total circumstances. Essentially, what the court held is that "equity" means something that is fair or right; "good conscience" means a moral set of right or wrong. And essentially, what they boil it down to is that "equity and good conscience" means fairness.

And they also remanded the case to the Department for consideration of a partial waiver. And in the past, as we discussed prior to the hearing, the Department had -- there was precedential decision that said we could waive the entire amount or none or we could not -- we could choose not to waive the overpayment but we could not do a partial waiver. But this decision changed that.
So the reason we are here today is to try to get some guidance or some input on what factors the staff should consider in making a determination as to what -- whether a waiver or offer in compromise should be granted. Fairness is very subjective. And it depends on my view of what is fair could be different than Nancy's view of what is fair or Jim's view of what is fair.

So we are trying to put in some guidelines as to what factors should be considered by staff. Now, this is not going to be the adjudicator's staff in the telecenter. So we are not dealing with 200 staff or 150 staff. We are dealing with about 5 staff in Jim's unit and about 20 staff in Nancy's unit who would be making this. But still, even among those 25 people there can be broad ranges of what is fair. And we certainly recognize that we can't come up with a definition of what is fair because it is so circumstance specific. But we are going to try to come up with a list of factors that should be considered when determining whether the waiver or the granting of the offer in compromise would be fair.

A lot of the things we thought of when we were trying to brainstorm how we would implement this decision tend to relate back to financial considerations. If you look at the Sullivan decision that I copied a page from, at the bottom of the front of the page it talks about things like...
the age of the claimant, marital and dependency status,
educational background as it applies to potential for
re-employment, general economic conditions affecting the
claimant's customary occupation, size of the overpayment.
Those all tend to relate back to financial considerations,
which to a certain extent is easier to do.

But as I mentioned, we do have to consider other than
just financial considerations. Because in the case that
the court decided, there was never an argument made from a
financial consideration perspective. It was a more
broadly -- it involved an element of fairness as to
whether, based on the circumstances of the case of the
individual, requiring repayment of the full amount from
the claimant would have been fair.

He ended up with a net loss in benefits because he
drew unemployment benefits for a period of time. In the
meantime, he was appealing his denial of workers'
compensation. He ultimately won, received an award of
workers' compensation. But because the attorney took 30
percent of that for attorney's fees, the claimant ended up
receiving less than he was being told he had to pay back
in unemployment benefits. His argument was, of course,
that that was not fair because the Department was enriched
by his going after the workers' compensation. He could
have simply dropped that appeal and been content with
receiving unemployment instead. And the fact that he did not enrich the trust fund because we ended up getting a large percentage of the money back. But he felt that he should not have to pay out more than he ultimately received in hand.

And it appeared the court tended to agree with him. Because although they did not order a waiver, they remanded it to the Department and said, "Consider under the guidelines of fairness whether granting a waiver of at least part of his overpayment amount would be fair to the individual."

So the other ramifications on this is, as I mentioned earlier off the record, that any amount waived or if we accept an offer in compromise has a direct bearing on reimbursing employers. Because they reimburse the Department dollar for dollar for any amount spent in benefits. So for example, in this case if we had paid out $1,800 to the claimant in the case for unemployment benefits, his employer, if they had been reimbursing, would have been required to pay the Department $1,800. Now, if we ended up collecting the full amount from the individual, we would have given that back to the reimbursing employer. But say we waived $1,000 of it and said, "Okay. You only pay us back $800." We would have sent $800 to the reimbursing employer and we would have
Public Meeting on Overpayments, 5/31/06

said, "Well, we waived repayment of $1,000." So in that case, the employer would essentially be out $1,000. So there is a more direct impact on reimbursing employers.

The court case essentially does require that the Department broaden its interpretation of equity and good conscience, which I can only presume is going to lead to allowing more waivers. I don't know what impact allowing partial waivers is going to increase or decrease the amount of -- the number of waivers we get. But just bear in mind that any amount we do waive or if we negotiate for a settlement of less than the full amount of the debt, the difference is going to be paid dollar for dollar by your clients who are reimbursing employers.

So essentially, the issues we have that we need to look at probably are, one, what factors do we consider in deciding whether granting a waiver would be fair. If we do decide to grant a waiver, how much? What factors do we take into consideration when we decide how much of that overpayment should be waived? If somebody has got a $10,000 overpayment, and if we think some amount should be waived, how do we set that amount? Is it $8,000 -- do we waive the $2,000 and collect $8,000? Or do we split the difference? Or do we waive $1,000? Or what criteria are we going to use to decide how much of the overpayment to waive?
And then third, again, because the statute is fairly similar, is what factors do we consider when we decide whether an offer in compromise should be accepted? Because doing so would be most fair. Recognizing again that offer in compromise does not restrict itself to only cases that don't involve fraud or don't involve fault. So the criteria may be somewhat different. Because on waivers, the claimant necessarily has to be without fault and that there cannot be fraud. So we would not consider those factors related to that for waivers. But we may want to include some factors related to those two, fault and fraud, for offers in compromise. Because technically, they could be granted. And obviously, if somebody, even if they committed fraud, if they are terminally ill or, you know, there are other circumstances, they become permanently disabled and not able to work, the reality is that collection is highly unlikely. And so at some point we should just say, "Okay. Let's just waive recovery of this debt because it is not going to happen."

And attempting to collect from somebody who is terminally ill or permanently disabled and unable to work is unconscionable or would be against equity and good conscience even if they had committed fraud in the beginning that set up the overpayment. So there could be
a variety of factors.

Discussion of Issues

MS. MYERS: So did you have any thoughts or things we should consider?

MR. PIERSON: Well, if it was an easy solution, I think all the answers would have been forthcoming from in-house probably. So I really don't think I have a silver bullet for it. But maybe I can preface some of my remarks and you can decide whether -- how serious of consideration they are worthy of.

First of all, I have worked in this business representing employers since about 1980. So I have done it for a good part of my work life or career. I have had plenty of experience working with reimbursing employers so I understand the ramifications to a reimbursing employer when faced with having to receive less back in an overpayment recovery.

I guess next, I think I should make it clear that I have not been asked to speak for them. I am just here to give an opinion based on my experience in the business in working with them. So I haven't had even a single reimbursers say, "Hey, Gary, would you present 'this' or 'that' idea?" So I think I need to qualify my remarks by
that as well.

I have not had much experience -- I have had virtually no experience, put it that way, working with overpayment issues on behalf of our Washington reimbursing clients. And I am talking primarily about -- I am mentioning reimbursing clients because I know it is them who are most severely impacted by it.

So with those kinds of preface remarks, I would say -- and this is really a personal opinion from having worked a long time in the business -- I favor any process or set of factors that will reach a middle ground between the needs of the Agency to recover as much as they can and the needs the claimant has to receive unemployment benefits.

I think that a system that says, "You can waive all or none" is really too harsh. I think in that sense, I actually agree with the Delagrave analysis. And I think they worked hard to come up with the rationale to send it back to the commissioner to identify what should be waived in that particular claim.

But I think that anybody reading that would recognize that there is a fairness issue involved there. And I think that is, essentially, the Department would not have been in the position to get any money back had not the claimant took the initiative to go get what he felt was
due to him. And in order to do that, he incurred a cost. And so from that standpoint, I think that maybe you can identify this as a factor to consider, but I think that the claimant should be entitled to a waiver of at least some of an overpayment when the potential to recover for the Department exists only because of an action that the claimant has taken. It wasn't anything that the Department had to do something with. It was the claimant's initiative in recouping money that he felt was due to him that made it possible for the Department to step in and say, "All that needs to come to us."

So how you define that in the rule, I am not exactly sure. But the way I have written it down here is that the claimant should be entitled to at least -- waiver of at least some of an overpayment when the Department would not have been in a position to recoup anything had not the claimant taken an action and succeeded in that action. So that would be one factor, I guess, if you could call it that.

I certainly don't have any statistics to back up this next statement. But I expect that if the Department were to have the capability to waive -- to give partial waivers, it may actually increase the amount of its overpayment recovery. Because I tend to think that the standard that has been applied in overpayment recovery

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situations, that is, waive all or none, has had somewhat of a chilling effect on overpayment recovery decisions -- decision makers.

If I were in a position of having to decide that issue, I would be reluctant to waive -- I'm kind of getting tangled up in words here -- but to waive it all, put it that way. And again, I'm not sure I'm conveying the idea precisely. But hopefully you understand that if there was the additional capability on the part of a decision maker to waive some of it, I think they might be more inclined to find that middle ground to do what I think they think is right for a claimant and what is right for a base-period employer or reimbursing employer if that happens to be a base-period employer.

The standard that has been applied so far in the rule, that is, looking at the financial ability of a claimant to repay an overpayment, I think is more susceptible to an objective application. So in that sense, I think trying to identify more subjective standards of so-called "fairness" makes the decision maker's job more difficult. But that goes on all the time in life. And so I think that -- and again, it doesn't necessarily answer your needs in identifying what those factors should be. But it is more a vote of confidence that I would have having been involved in this industry
for a long time in the capability of decision makers
including first level decision makers, ALJs, and so forth
to do the right thing, particularly if they have the
capability to grant partial waivers.

So again, it is not so much an answer to what is a
fairness factor as it is a vote of confidence on the part
of myself in the ability of decision makers to properly
exercise their judgment in making an appropriate decision.
And I understand that the system is not perfect. It never
will be perfect. And somebody is always going to be
unhappy or less than happy with the decision that has been
made. There is just no getting around that.

I kind of wonder -- I just made a note to myself,
Juanita, while you were talking, that if you allow partial
waivers -- and it looks like that's something that is
going to have to happen -- is it going to mean that the
Agency itself is going to have to devote more staff time
because you have to have your hands on more cases to
resolve? That is not my issue to figure out. And I don't
know if that is an appropriate matter for consideration in
rule making. But it is just something to consider.

You said you would like to get your arms around what
factors to consider -- factors to apply in considering a
waiver, whether to make a waiver or not, partial or full,
and also you said you are looking at what facts in
determining and how much to waive. So once you decided
that this is a case appropriate for a partial waiver,
should there be or could there be a standard that says
what the limitations are for granting a partial waiver?
And the only thing that occurred to me -- and I had not
really thought about it in those terms before -- while you
were talking, it seemed to me that if it seemed that the
claimant has an asset of a certain value, what is the
percentage relationship between the value of that asset
and the amount of overpayment that exists? For example,
if the asset is $5,000 and the overpayment is $10,000,
maybe the appropriate standard to consider is the
percentage of -- the ratio of one to the other, in this
example, 50 percent. So you would maybe be willing to
grant or define as a standard in the rule an amount of, in
this example, 50 percent, as a partial waiver. So that is
just a thought. Again, it is not really thought through
at all because it only occurred to me while you were
talking.

Again, coming back, and I will try not to ramble
anymore, I think the current standard of looking at the
financial condition of the claimant's ability to pay is an
objective standard, obviously. It is more objective than
many other standards that might apply. But I think -- I'm
rambling. I don't have any more to add to that.
MS. MYERS: That is really helpful. I don't think we have considered -- we haven't experienced doing the partial waiver. So I don't know if that is going to create more workload or what it is going to do for staff. Because right now they do evaluate the financial data and decide whether to waive or not. I don't know how much additional work it would take to evaluate how much of the waiver -- if they decide waiver is warranted, how much of it to waive. We don't have any experience on that yet. But you are right. The decision from the Court of Appeals does require that we look at partial waivers now. So we would be looking at those in the future.

MR. PIERSON: Reimbursers might object to the fact that partial waivers would be granted. But at this point, they do not have any choice, really. That is a direction in which the court said the system needs to go. So the question is, how do you -- what factors are you going to decide? Again, I wish I had the answer. I really don't. I think that you mentioned some and they included others outside of financial condition of the claimant, personal factors including the claimant's family situation, age, and so forth. I think those are the judgment factors to consider. Because they could have a bearing on the person's ability to repay.

MS. MYERS: I also provided over there a packet of
the forms that we currently use for waivers and for the offers in compromise. We do in here, of course, send the notice to the reimbursing employer to let them know -- well, we give them input into the offer in compromise. If it is a formal offer in compromise, we notify the reimbursing employer that a request has come from the claimant. That tends to be used more if it is a formal request in writing. If they are negotiating on the phone, it is more difficult and may not occur. But the employer, correct me if I'm wrong, Jim, has the right to appeal -- a reimbursing employer has the right to appeal a waiver, correct?

MR. WILKINS: Right.

MS. MYERS: Yes. If we waive a portion of the overpayment, the reimbursing employer does have the opportunity to appeal that if he disagrees.

MR. PIERSON: It has been a long time since I have sat in on a hearing that involved that issue in Washington. I have done it. It has been a long time, though. In terms of years, it might even be over a decade. I hate to admit it.

But my experience -- what I remember about that whole process was the employer sitting next to me at that hearing had something to offer on the issue at hand, the separation issue, for example; they had a little to offer
in the overpayment issue. They do not know the claimant's personal or financial situation. I think if anything, if I was sitting in one of those hearings, I've got an employer nudging me in the side saying, "Well, ask him 'this' or ask him 'that.'" But the reality is, they do not have firsthand information about those factors that need to go into evaluating a claimant's ability to repay. And I tend to think that the decision maker, the ALJ or at the lower level, they know the questions to ask. Again, it comes back to that notion of the confidence and the ability of the decision maker to ask the right questions.

So I don't know. Those might be --

MS. MYERS: I think you are probably right. Because I think in a lot of the cases what they are trying to do, re-adjudicate the separation decision --

MR. PIERSON: That is what I was trying to say.

MS. MYERS: -- rather than getting to why that person is eligible for a waiver or not. When we are looking at factors like their financial circumstances, family size, other personal, unusual circumstances that deal with that, you are right. The employer probably does not have the information that would be necessary to argue against that in a lot of cases unless they can provide information that they know the person is working under the table or they -- whatever
information they know -- that they may know. But you're
right. Most of the cases, I think they are arguing about
the reasons for the overpayment as opposed for the reasons
for the waiver.

MR. PIERSON: And I think, again, coming back to a
point I was stumbling with earlier to make, and that was
when a decision maker was faced with waive or don't waive,
that is the only choice they had; if they are given the
choice to waive part, they might be more inclined -- they
could have made that decision and actually gotten
something back instead of making the decision, don't
waive.

MS. MYERS: Yes. Or waive all of it.

MR. PIERSON: Or waive all of it.

Thanks for the opportunity to speak. It has been an
education for me. I appreciate receiving the materials
and hearing some of the insight about what has brought
this to this point and I guess I want to wish you well in
where you are going.

MS. MYERS: Thank you.

I do have one question to throw out because I did it
at the previous hearing and you are a perfect person to
check with. One of the things we were looking at when we
were kind of brainstorming within my policy unit what
factors might be considered in determining whether a
waiver would be fair is what information did the employer provide. For example, the claimant reported that they voluntarily quit their job and, in fact, provided us all the information we needed. But we never heard back from the employer or the employer's representative. So we made a decision based on the information provided by the claimant. At that point, the employer appealed, provided new information at the hearing and the judge reversed the allowance and denied benefits, which in that case created a large overpayment for the claimant. Should one of the factors to be considered be whether the employer timely responded to the request for information?

MR. PIERN: I think that is fair. I don't have any problem with that.

I am very familiar with the USDOL integrity proposals. I am very familiar with the initiatives taken in several states to hold employers accountable for failure to participate in the process. I am familiar with the solution some states have initiated to hold employer reps accountable. I have some pretty strong feelings about that. Because as I mentioned off the record, we are a conduit of information. I have faith in the fact that our people attempt to get the information. Not every state that we work with will agree with that. But I can say by and large we are making that effort to get it.
As I mentioned earlier, it is an imperfect system. And there are some realities that we in our business work with that are different from realities that existed in this business 10 or 20 years ago. For one thing, there are, I think, many more multistate employers -- employers that have multistate operations. Now, this is apart from reimbursers essentially are in state. But there are many more employers with multistate operations that have chosen for various reasons, not only unemployment insurance but for a variety of reasons to centralize operations. So the flow of information for that particular multistate employer will go through frequently a central point of control, a corporate office, for example. It might be HR; it could be payroll. And that is the route through which our information that we give back to the agency has to come.

It is a cumbersome process, but it is a reality of our work-day life in this business. And so as a consequence, it frequently takes longer for an employer to get information that many states require to be given in a matter of days from receipt of the claim until they have to respond. We know what our response time is available in every state. I just don't have it with me. But I think Washington is actually pretty good. We probably get --
MS. MYERS: Ten days.

MR. PIERSON: Well, the law gives ten days. But by the time we get the claim in the mail, you know, we have probably got six to eight. I think it's more like eight in the case of Washington. So it is pretty quick. So there are issues like that at play, or misdirected claims and so forth. And that is a minority. But it is an example of systems that impede an employer's ability to participate effectively in the process.

So with all that said, there are quite often two sides of the coin. I strongly oppose a state's action that would bar an agent such as ourselves from participating in that state as a representative when we have done a good job for Employer A in giving full information, but for Employer B we have done a bad job because Employer B just doesn't give it to us to give. And as a consequence, a percentage of our errors in that state in that state's mind, at least, is too high and they are looking at bumping us out.

I am thankful to say that that's -- that's a method that's been employed by agencies by only one -- I think one, Wisconsin. But I don't have any problem with states who have laws that denies party status to an employer for failure to participate -- to give timely and complete information or that denies charge relief -- and this,
again, only really affects an experience-rated employer --
but that denies charge relief for those employers who
don't provide timely and complete information. Again, we
are the conduit of that information. We tried to get it,
but we don't always get it.

I think just one final comment, and that is
occasionally we shoot ourselves in the foot because even
though we have tried, we don't call the agency back and
say, "We tried, but we could not get it." So that
happens.

But anyway, to answer your question, Juanita, I think
that that is a legitimate factor to consider in deciding
whether or not to waive all or part of an overpayment when
an employer has failed to cooperate in the process. Part
of the problem in that, though -- and you have probably
thought this through already -- and that is, if you have
got a last employer who is not a base employer who has
been the one who didn't timely provide the information,
and the 100-percent-base employer is a reimbursing
employer, the fault of that last-but-not-base employer in
not getting the information means that the reimbursing one
gets burned. And so I don't know. It is a tough matter
to resolve in that respect.

MS. MYERS: We probably have to tie that to whether
the person was also a base -- a base-year employer who did
not provide the information that we needed. Yes, we would
probably have to tie it to the fact. But you're right.
They could have been one of four base-year employers or
more.
MR. PIERSON: I can say that -- no, I guess I can't.
I won't get into that. But maybe suffice it to say that
we make frequent either one-on-one attempts with our
employer clients, and when the opportunity presents, in
the form of newsletters to educate them about their
responsibility to be an effective participant in the
process which means, "Give us the information, give it
completely and give it on time so that we can give it to
the agency." So we do our best to educate them in that
respect. There are some that are very good; there are
some that are not good.
And I think virtually any state agency that I have
talked to and have had this discussion with both
acknowledge the fact that if they are dealing with an
unrepresented client, they have that same experience
themselves. Some are good about calling back and giving
them what the agency needs; some employers are not.
MS. MYERS: Thank you very much. Your input was
really helpful.
Did you have any additional comments or questions
while we are still on the record?
MR. PIERSO: No, I don't.

MS. MYERS: I thank you for attending. We are probably going to -- we did not get a lot of input at the last meeting, but we are going to take what we got and draft up some rules. We will look at the information we have based on the court case and some of our other -- as I mentioned, some of our commissioner's precedential decisions and come up with some draft rules to try to spell out what kind of factors we will look at for all three types of circumstances: waivers, partial waivers and the offers in compromise, and send those back out and convene additional meetings.

And I am sure we will have more turnout once we have actual rules for people to take a look at. And I know a lot of times it is easier to express opinions when you are looking at something in writing and you have got something specifically to comment on. But I would not expect that before about the end of summer at the earliest just because of the other rule-making processes that are ongoing at this point.
Public Meeting on Overpayments, 5/31/06

1       With that said, we will adjourn the meeting. And
2       thank you again.

3       (Whereupon, proceedings
4       adjourned at 2:25 p.m.)
CERTIFICATE

STATE OF WASHINGTON )
    ) ss.
County of Pierce )

I, Cheryl A. Smith, a Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing transcript of proceedings was taken before me and transcribed under my direction; that the transcript is an accurate transcript of the proceedings insofar as proceedings were audible, clear and intelligible; that the proceedings and resultant foregoing transcript were done and completed to the best of my abilities for the conditions present at the time of the proceedings;

That I am not a relative, employee, attorney or counsel of any party in this matter, and that I am not financially interested in said matter or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my hand on this 7th day of June, 2006, at Auburn, Washington.

Cheryl A. Smith, CCR, CVR
Excel Court Reporting
16022-17th Avenue Court East
Tacoma, WA  98445

(CCR License #3017)