

ET HANDBOOK NO. 399
INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES

SECTION V - RIGHTS AND RESPONSIBILITIES OF
THE TRANSFERRING STATE

1. Responding to Wage Transfer Request. To implement the requirements of this arrangement, States with quarterly wage reporting requirements should have means to obtain wage data which are not yet reportable. To avoid delays in processing combined-wage claims, transferring States should act promptly to obtain wage data and hold employers to tight schedules for their replies. Requests for transfer of wages should not go unanswered until such wages are reportable under the regular quarterly reporting system.

A transferring State must transfer all of the claimant's available employment and wages which are within the base period of the paying State (refer to Section V, Item 3).

When employment and wages are transferred, the transferring State must establish controls to assure that such employment and wages are not again used in the calculation of entitlement for a subsequent claim.

2. Promptness of Wage Transfer Response. Due to differences in paying and transferring States' base periods, wage data for two base periods must be obtained in many cases to identify transferable wages and to determine if the claimant is separately eligible in the transferring State. States must assure that wage reporting requirements meet this need.

Upon receipt of a Request for Transfer of Wages, Form IB-4 (or automated TC-IB-4R), the State must promptly obtain and transfer all employment and wages in the base period of the paying State.

If for any reason the transferring State cannot complete and return the IB-4 to the paying State promptly, the transferring State should notify the paying State and explain the reason for the delay. The transferring State should not delay a response while an extensive field investigation is conducted regarding an employer who has not reported wages or for whom the State has no record.

When wages are unavailable for transfer as a result of a determination issued prior to the receipt of the transfer request, the transferring State should complete the IB-4 response and attach all pertinent documents.

For purposes of wage transferring, "promptly" has been defined under the Quality Appraisal system as:

- a. Within 7 days - when the transferring State's law requires quarterly wage reporting of the wages requested;
- b. Within 14 days - when the transferring State's law requires wages to be reported upon request; and, when request reporting of wages is necessary because the wages requested for transfer are not yet reportable or such wages are not covered by the quarterly wage reporting requirement.

3. Determining Availability of Wages. Records should be reviewed to determine if for any reason wages should not be transferred. Although the claimant may have employment and wages in the base period of the paying State and wages are on file, such wages may be unavailable for transfer. If wages are not subject to the transfer restriction outlined in 3(a) below, they must be transferred upon request.

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The transferring State should not attempt to determine if wages have been illegally earned. The determination as to the validity of the wages will be made by the paying State. When a State has been notified by a paying State that wages earned in the transferring State have been determined to have been illegally earned, the transferring State should take steps to assure that such wages are unavailable for future use.

a. Employment and Wages Not Transferable. When the claimant has an unexpired benefit year on file in the transferring State and there is an available balance (i.e., there is no existing disqualification, postponement or other applicable restriction), wages will not be transferred. Wages must not be transferred under the following conditions:

- (1) Such wages have been transferred to another State and not returned unused;
- (2) Such wages have been used in the transferring State as the basis of a monetary determination which established a benefit year;
- (3) Such wage credits have been cancelled or determined unavailable to the claimant as a result of an appealable determination issued by the transferring State prior to the receipt of a request for transfer.

A transfer of employment and wages must be withheld under 3.a(3) above if the latest determination or decision imposes or upholds the cancellation or if the determination is in the process of appeal or reconsideration. If such determination or decision is later reversed in favor of the claimant on reconsideration or appeal, the employment and wages must be transferred if appropriate. The claimant's records should be noted in a manner to trigger contact with the paying State to determine if the wage transfer is necessary.

4. Transferring Federal Civilian Employment and Wages. Federal civilian employment and wages may be transferred for use in a combined-wage claim in the same manner and under the same conditions as State-covered employment and wages. The State to which the employment and wages are assignable may transfer all or part of such employment and wages, as appropriate.

Upon receipt of a request for transfer of Federal civilian service and wages, the transferring State must obtain all Federal service and wages in the base period of the paying State, transferring State and any lag period for assignment purposes. All such wages are assignable to the transferring State if a combined-wage claim filed in the paying State results in a benefit year being established. All employment and wages in the base period of the combined-wage claim are transferable to the paying State without restriction as to their use in the combined-wage claim determination.

5. Transferring Federal Military Service and Wages. Federal military service and wages may be transferred for use in a combined-wage claim in the same manner and under the same conditions as State-covered employment and wages. The State to which the employment and wages are assigned may transfer all or part of such employment and wages, as appropriate, without restriction as to their use in the combined-wage claim determination.

Upon receipt of a request for transfer of military service and wages, the transferring State must transfer all such available service and wages in the base period of the paying State. Lag period military wages should have been calculated and entered onto wage files at the time of the "first claim filed" which assigned the wages. If such employment and wages were not calculated and filed at that time, the transferring State must take care to use the appropriate "schedule" to determine the wages available for transfer.

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6. Transferring Employment and Wages From an Educational Institution or Earned by a Professional Athlete.

When transferring wages from an educational institution or wages earned by a professional athlete, the transferring State must identify the type of wages as the use of such wages are subject to denial during periods prescribed under the paying State's law.

7. Completing the Wage Transfer Response. The IB-4 response involves a series of responses to questions in addition to the request for all employment and wages in the base period of the paying State. In order for the transferring State to respond to all questions, a number of claimant files must be reviewed to obtain information pertaining to the claimant, and the State must determine if the claimant would be separately eligible in the transferring State if a claim were so filed with the same effective date.

The transferring State must indicate whether the claimant is monetarily eligible for a claim against that State with the same effective date as the combined-wage claim. If so, the reply must include the weekly and maximum benefit amounts to which the claimant would be entitled. All transferable employment and wages within the base period of the paying State must be reported on Form IB-4. When a transferring State discovers employment and wages in the paying State's base period from an employer that is not identified on the request, such employment and wages must also be reported on the IB-4 response.

When employment and wages are transferred that were earned in a type of employment, where it is required that the paying State make a determination as to their use during certain periods, or request reimbursement for benefits paid from other than the transferring State (e.g., earnings in educational institutions, professional sports, UCFE, UCX, etc.), such employment and wages must be appropriately identified. All employment and wages should be reported on the reply in the manner specified by the paying State whenever possible. When the transferring State cannot supply the exact number of weeks or hours in which the claimant had some work, the transferring State should provide as much information as possible. The paying State will adjust the information as best as it can to provide the most equitable computation and distribution of charges.

a. Separate Eligibility in the Transferring State. When Form IB-4 is received by the transferring State, it should be processed for a monetary determination as if a claim had been filed by the claimant against that State with the same effective date.

If the claimant would be monetarily eligible for benefits in the transferring State on a claim filed with the effective date shown on Form IB-4, the transferring State should report this information in Item 10 to the paying State by checking the "yes" box. If "yes" is checked, the weekly and maximum benefit amounts should then be shown in the spaces provided. This information is necessary in order for the paying State to further advise the claimant of available options based on better information than that available at the time of the initial claim interview.

Monetary eligibility in a transferring State may not be cited as grounds for refusal to transfer wages which are available.

b. Existing Benefit Year in the Transferring State. The transferring State must determine if the claimant has an unexpired benefit year on file and the status of such claim and respond to the questions pertaining to the existence of a benefit year and the availability of benefits accordingly.

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(1) If the claimant has an existing benefit year with a balance remaining, the question should be answered "yes." If the benefit balance is available (there is no existing postponement, seasonal restriction or disqualification prohibiting the payment of benefits), the benefit availability question is answered "yes" and no employment and wages are transferred. The request for wages should be returned indicating the benefit year ending date, weekly benefit amount, maximum amount available.

(2) When the claimant has an existing benefit year with a balance remaining and one of the conditions described in (a), (b), and (c) below exists, the question pertaining to the existence of a benefit year is answered "yes", but the benefit availability question is answered "no". All unused employment and wages in the base period of the paying State must be transferred. Conditions of (a), (b), or (c) below may not be cited by a transferring State as grounds for refusal to transfer wages which have not been used to establish a benefit year.

(a) Claimant's rights to such benefits have been postponed for an indefinite period, other than where the claimant is unable to work or unavailable for work. (For example, a nonmonetary disqualification denies benefits for the duration of unemployment and/or until a specified amount of wages are earned in subsequent employment.)

(b) Claimant's rights to benefits for the remainder of the benefit year have been denied. (This occurs when benefit rights are cancelled or postponed because of a fraud or misconduct determination.)

(c) Claimant's rights to benefits are postponed or denied by the application of a seasonal provision.

When wages are transferred in accordance with this procedure and item 3.b.2(a) applies, the transferring State should advise the potential paying State of the requalification requirements. Enter this information in the "Remarks/Comments" section of the Form IB-4 or the TC-IB-4R, as applies. This information will be used by the paying State to determine if it should proceed with the CWC claim or if an additional claim is in order.

(3) When there is an existing benefit year with no remaining benefit balance, all available employment and wages which are in the paying State's base period are transferable and Form IB-4 should be answered accordingly.

c. Total Base Period Wages. The transferring State should transfer all available employment and wages in the base period of the paying State, except when there is an existing benefit year in the transferring State with an available balance.

When employment and wages earned and/or paid, as appropriate under the transferring State's law, during the base period of the paying State are not transferable or have been cancelled as a result of a determination issued prior to the receipt of the request for transfer, a copy of the determination should be forwarded to the paying State. When a TC-IB-4R is used, the paying State should be advised that a copy of the determination is being forwarded.

The transferring State must not deny a transfer of employment and wages on the basis of a determination issued after the receipt of a wage transfer request.

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If the transferring State is aware of employment and wages with covered employers under its law, but such employment was not listed, if required, on the Form IB-4, the transferring State should include such employment and wages in the transfer response.

8. Correcting a Wage Transfer Response. Upon discovery that employment and wages have been inaccurately transferred, a transferring State has an obligation to inform the paying State of the correct employment and wages. The transferring State may not request the return of the erroneously transferred wages, nor may it demand a redetermination based on the corrected amount. The paying State's rules govern actions taken in response to corrected information.

9. Requesting Recovery of Overpayments. The transferring State should request the paying State to recover outstanding overpayments. The paying State is required to honor requests as described in this section unless recovery is prohibited by its law. Except, recovery must not be by cross-program offset unless the transferring State and paying State have a reciprocal agreement with the Secretary of Labor.

a. Overpayment Created by Withdrawal of Combined-Wage Claim. In rare cases, a transferring State may have been the paying State on a prior withdrawn combined-wage claim. If so, when the claimant does not repay in cash, authorization for repayment by the new paying State (or liable State) is required as a condition of the withdrawal. The transferring State should transmit a copy of such authorization and overpayment determination to the new paying State.

b. Date of Overpayment Determination Within 3 Years of the Effective Date of the Combined-Wage Claim. A transferring State may request recovery of an outstanding overpayment from benefits to which the combined-wage claimant is entitled. The transferring State must certify that the overpayment determination was issued within 3 years of the filing of the combined-wage claim; that repayment by the claimant is legally required and enforceable under the law of the transferring State. A copy of the determination should be included with the recovery request.

c. Date of Determination in Excess of 3 Years From the Date of the Combined-Wage Claim. Section 303(g) of the Social Security Act provides for any State to request recovery of any overpayment where collection is enforceable under its law. Because of the transferring State - paying State relationship, such requests may be in the same manner as those under 8 b. However, unless both States are participating in a reciprocal recovery agreement to participate in interstate overpayment recovery the paying State may refuse the request (Refer to ET Handbook No. 392, Section IX).

d. Updating Overpayment Records in the Transferring State. If Form IB-6 contains information showing that the paying State has received and credited overpayment recoveries to the account of the transferring State, care should be taken to assure the proper crediting of such payment to the overpayment records of the claimant.

10. Reimbursing the Paying State. Within 45 days after the end of each calendar quarter, the transferring State should receive a statement of charges from the paying State on all combined-wage claims for which benefits were paid in prior quarter. The statement may also include credits for recovery of a transferring State overpayment by offset from a combined-wage claimant's benefits during the quarter.

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Charges to the transferring State should be the same percentage of the total benefits paid as the transferring State's wages used in the calculation of monetary entitlement represent to the total wages which were used in the calculation.

Since some States distribute benefit charges at the time the payment is made, the charges may be a few cents over or under the results obtained by applying the computed percentage to the full amount shown in column D. In such cases, the transferring State should reimburse the paying State as billed.

Reimbursement in the amount shown at the bottom of Form IB-6 is due and payable upon receipt of the charge statement. The check should be drawn on the transferring State's unemployment funds benefit account and forwarded to the paying State promptly. For reimbursement purposes, "promptly" is defined under the Quality Appraisal system as within 45 calendar days from the date of receipt of the statement of charges.

When charges cannot be accounted for, the agencies involved should immediately attempt to settle the dispute. If the dispute cannot be settled and reimbursement accomplished prior to the next billing cycle, the transferring State should reimburse all undisputed charges.

11. Settlement of Disagreements. A State with an unresolved disagreement should notify its Employment and Training Administration Regional Office, by memorandum which details the State's concern. Copies of all prior correspondence concerning the issue should accompany the memorandum to the Regional Office.

The Employment and Training Administration will attempt to resolve the issue. In the event that mediation fails, the Employment and Training Administration will consult with the ICESA, and will thereupon issue a decision.