

**Integrity Provisions – Amendments made by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) for Combined Wage Claims (CWC)
Questions and Answers**

State Determinations

Question #1 – If an overpayment occurs on a CWC, which state is responsible for determining whether the chargeable employer is at fault for failing to respond timely or adequately to the paying state’s request for information?

Answer. The paying state is responsible for the determination. Once the paying state’s unemployment insurance (UI) agency requests necessary information from an employer or its agent in processing a CWC filed in the state, only the “paying state” can determine whether the employer or its agent is at fault for failing to respond timely or adequately to the request. In this case, the paying state is making a determination about timeliness or adequacy with respect to the employer’s actions and not ruling on the matter of the broader pattern of behavior. The paying state must promptly issue a determination to the employer and, as appropriate, advise the transferring state of that determination. It is strongly recommended that states use the Unemployment Insurance (UI) Interstate Connection (ICON) CWC 02-12 application.

Question #2 - Which state is responsible for determining whether the employer has established a pattern of failing to respond timely or adequately to requests from a state agency for information relating to a CWC?

Answer. It depends. If the chargeable employer is a covered employer in the paying state (i.e., an “in-state” employer), the paying state will determine whether the employer has met the paying state’s standard for a pattern and issue a determination to the employer.

If the chargeable employer is a covered employer in the transferring state (i.e., an “out-of-state” employer, from the perspective of the paying state), the transferring state will determine whether the employer has met the transferring state’s standard for a pattern and will issue a determination to the employer following its own law concerning notification of charges to an employer.

A state, under its law or written policy, may elect to combine occurrences of an employer’s failure to respond timely or adequately from one or more states to determine whether the employer or its agent has developed a “pattern.”

Question #3 – Does TAAEA require paying states to use the UI-ICON CWC 02-12 application to notify other states of determinations about a CWC that triggers the new employer charging provisions?

Answer. States are not required to use the UI-ICON CWC 02-12 application. However, paying states do have an obligation to notify the transferring state promptly when the paying state

determines that an employer from the transferring state is at fault for a CWC overpayment, based on the employer's failure to respond timely or adequately to the paying state's request for information. The paying state is also required to notify the transferring state of any appeals and appeal decisions related to the initial determination. Based on state input, the UI-ICON CWC 02-12 application was developed to facilitate the necessary communications between paying states and transferring states with regard to the TAAEA provisions. Thus, we strongly recommend that states use the UI-ICON CWC 02-12 application for this purpose.

Employer Appeals

Question #4 - If the chargeable employer appeals the paying state's determination that the employer has failed to respond timely or adequately to the state's request for information, which state has the responsibility of hearing the appeal?

Answer. The paying state is responsible for hearing an employer's appeal from its determination that the employer failed to respond timely or adequately to a request for information. The paying state will hear the appeal of its determination whether the employer is an in-state or an out-of-state employer. The paying state must promptly communicate the disposition of the appeal to the transferring state, as appropriate. We strongly recommend that this be done through the UI-ICON CWC 02-12 application to help ensure that the employer's account is charged or relieved of charges ("non-charged"), as appropriate, in the transferring state.

Question #5 – Which state hears an employer's appeal from a determination that the employer or its agent has established a pattern of failing to respond timely or adequately to request from a state agency for information relating to a CWC?

Answer. It depends. If the chargeable employer is a covered employer in the paying state, the paying state determines whether the employer met its standard for a "pattern" and will be responsible for hearing the appeal. If the chargeable employer is covered under the law of the transferring state, the transferring state determines whether the employer met its standard for a pattern and will be responsible for hearing the appeal.