

**04 NCAC 24D .0303 ADEQUACY PENALTY DETERMINATION**

(a) DES shall issue a written Adequacy Penalty Determination at the end of each charging cycle to notify the employer of charges to its account for erroneous unemployment benefit payments identified during the charging cycle if the payments resulted from untimely or inadequate responses as set forth in 04 NCAC 24D .0301 to requests for information regarding a claimant's separation from employment or status, if the employer met or exceeded the adequacy threshold in the prior reporting cycle.

(b) The Adequacy Penalty Determination shall include the following:

- (1) a listing containing the specific claims that would have resulted in a relief from charges as a result of erroneous unemployment insurance payments that were later reversed on appeal;
- (2) instructions for protesting the Adequacy Penalty Determination; and
- (3) the date that the Adequacy Penalty Determination is mailed or sent to the employer by electronic transmission.

(c) An employer may protest its Adequacy Penalty Determination and shall file its written request with DES's Claims Unit pursuant to 04 NCAC 24A .0104(m).

- (1) The request shall include:
  - (A) the name of the employing unit;
  - (B) the address of the employing unit;
  - (C) the account number of the employing unit;
  - (D) a statement of the question involved and reasons for the request; and
  - (E) the name, address, and official position of the individual making the request.
- (2) The written request shall be filed within 15 days after the date that the Adequacy Penalty Determination was mailed or provided to the employer by electronic transmission, and the timeliness requirements of 04 NCAC 24A .0106 shall apply.
- (3) Following receipt of the written request, the Claims Unit shall review the employer's request and issue a written determination. The determination shall notify the employing unit of whether its application was granted or denied, explain the reasons for the ruling and identify the information considered, and contain instructions for appealing a denial to DES's Appeals Section pursuant to 04 NCAC 24A .0104(m).

*History Note: Authority G.S. 96-11.3; 96-11.4; 96-15; 26 U.S.C. 3303;  
Eff. July 1, 2015;  
Amended Eff. October 1, 2017.*