§ 597. Initial determination. 1. Issuance. The validity of the claim and the amount of benefits payable to the claimant shall be determined in accordance with the regulations and procedure established by the commissioner and, when such determination is issued by the commissioner, it shall be deemed the initial determination of the claim.

2. Obtaining information necessary for determinations. (a) When filing an original claim, each claimant shall furnish to the commissioner all information which the commissioner shall require concerning his or her prior employment.

(b) Whenever a claimant's base period includes a completed calendar quarter for which a wage data report is not due or has not been received and the claimant provides information as required by the commissioner, the commissioner shall determine such claimant's entitlement and benefit rate using the information the claimant provided for such quarter. However, in those instances where the claimant is unable to provide such information to the commissioner's satisfaction, the commissioner may request the employer to provide the amount of remuneration paid to such individual. The commissioner shall notify each base period employer upon the establishment of a valid original claim, of such claim. If an employer provides new or corrected information in response to the initial notice of monetary entitlement, adjustments to the claimant's benefit rate and adjustments to the employer's experience rating account shall be prospective as of the date such information was received by the department.

(c) Notwithstanding paragraph (b) of this subdivision, adjustments to the claimant's benefit rate and adjustment to the experience rating charges to the employers' accounts will be retroactive to the beginning of the benefit claim in the following circumstances:

(i) the new or corrected information results in a higher benefit rate, or

(ii) the new or corrected information results in the claimant's failure to establish a valid original claim, or

(ii) the amount of the previously established benefit rate was based upon the claimant's willful false statement or representation.

(d) Notwithstanding any provisions of this article, unless a commissioner's error is shown or the failure is the direct result of a

disaster emergency declared by the governor or president, an employer's account shall not be relieved of charges resulting in an overpayment of benefits when the commissioner determines that the overpayment was made because the employer or the agent of the employer failed to timely or adequately respond to a request for information in the notice of potential charges or other such notice requesting information in relation to a claim under this article, provided, however, that the commissioner shall relieve the employer of charges the first time that the employer fails to provide timely or adequate information, if the employer provides good cause for such failure as determined by the commissioner.

"Timely" shall mean a response is provided in the time period specified in the notice as prescribed by the commissioner.

The term "adequately" shall mean that the employer or its agent submitted information sufficient to render a correct determination.

This prohibition for relief of charges shall apply to all employers under this article including employers electing payment in lieu of contributions.

3. Limitation on review of determinations. Any determination regarding a benefit claim may, in the absence of fraud or wilful misrepresentation, be reviewed only within one year from the date it is issued because of new or corrected information, or, if the review is based thereon, within six months from a retroactive payment of remuneration, provided that no decision on the merits of the case has been made upon hearing or appeal. Such review shall be conducted and a new determination issued in accordance with the provisions of this article and regulations and procedure prescribed thereunder with respect to the adjudication and payment of claims, including the right of appeal.

4. Effect of review. Whenever a new determination in accordance with the preceding subdivision or a decision by a referee, the appeal board, or a court results in a decrease or denial of benefits previously allowed, such new determination or decision, unless it shall be based

upon a retroactive payment of remuneration, shall not affect the rights to any benefits already paid under the authority of the prior determination or decision provided they were accepted by the claimant in good faith and the claimant did not make any false statement or representation and did not wilfully conceal any pertinent fact in connection with his or her claim for benefits.