



Am. Sub. H.B. 509
123rd General Assembly
(As Passed by the General Assembly)

Reps. Corbin, Cates

Sen. Nein

Effective date: *

ACT SUMMARY

- Expands the list of services that are not considered "employment" for purposes of determining eligibility to receive unemployment compensation benefits.
- Specifies that only those weeks ending at midnight Saturday within the calendar quarter are to be used to determine the weeks that comprise a calendar quarter for purposes of determining eligibility to receive unemployment compensation benefits.
- Modifies the criteria for determining the validity of an application for determination of benefit rights.
- Removes the exemption from filing notice of separation three days prior to separation as applied to employers engaged in connection with the commercial canning or freezing of fruits and vegetables.
- Specifies that under certain agreements between an employer and an employee, an employee is not considered unable to find suitable employment if the individual fails to inquire with the individual's employer regarding available work assignments.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Specifies that under certain conditions the Director of Job and Family Services may disclose an individual's wage information to a consumer reporting agency.
- Specifies that under certain conditions, the Director does not need to notify an employer that an individual has filed an application for the determination of benefit rights.
- Specifies that determinations concerning the employment of an authorized provider of a certified type B day-care home, for purposes of the Unemployment Compensation Law, must be determined under the Unemployment Compensation Law.
- Eliminates the certification of certain types of claims to the Ohio Supreme Court.
- Authorizes the Director to reduce the amount of interest, forfeiture, or fines required to be paid by an employer if the Director determines that the reduction is in the best interest of the Unemployment Compensation Fund.
- Specifies that an employer qualifies for experience rating if there have been four consecutive quarters, ending on June 30 immediately prior to the computation date, throughout which the employer's account was chargeable with benefits, in substitute for the existing criterion.
- Requires the Director to disclose information furnished or maintained by the Director upon request and on a reimbursable basis as required under the federal Social Security Act and the Internal Revenue Code.

CONTENT AND OPERATION

The definition of employment

Continuing law specifies what is and is not considered "employment" for purposes of determining eligibility to receive unemployment compensation benefits. The act adds the following to the existing list of services that are not considered "employment":

(1) Service that is performed by an individual working as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000;

(2) Service performed for an elementary or secondary school that is operated primarily for religious purposes and exempt from federal income tax;

(3) Service performed by a person committed to a penal institution. (Sec. 4141.01(B).)

Base period

The act specifies that for purposes of determining the weeks that comprise a completed calendar quarter under the definition of a base period or alternate base period, only those weeks ending at midnight Saturday within the calendar quarter are to be used. (Sec. 4141.01(Q)(4).)

Application for determination of benefit rights

Under former law, effective for applications filed for the determination of benefits with respect to weeks beginning on or after October 1, 2000, the application would be valid if made in accordance with the law governing the filing of an application and if the individual filing the application was unemployed, had been employed by an employer or employers subject to the Unemployment Compensation Law (R.C. Chapter 4141.) in at least 20 qualifying weeks within the individual's base period, had earned or been paid remuneration at an average weekly wage of not less than 27 and 1/2% of the statewide average weekly wage for those weeks, and the reason for the individual's separation was not disqualifying.

The act modifies this provision. Under the act, any application for determination of benefit rights made in accordance with the law governing the filing of applications is valid if the individual filing the application is unemployed, has been employed by an employer or employers subject to the Unemployment Compensation Law in at least 20 qualifying weeks within the individual's base period, and has earned or been paid remuneration at an average weekly wage of not less than 27 and 1/2% of the statewide average weekly wage for those weeks. Effective for applications filed on and after March 3, 2002, any application for determination of benefit rights made in accordance with the law governing the filing of applications is valid if the individual satisfies the criteria described directly above and if the reason for the individual's separation is not disqualifying.

Additionally, the act specifies that for purposes of determining whether an individual has had sufficient employment since the beginning of the individual's previous benefit year to file a valid application, "employment" must be interpreted as the performance of services for which remuneration is payable. (Sec. 4141.01(R).)

Notice of separation

Under former law, an employer of individuals engaged in connection with the commercial canning or freezing of fruits and vegetables was exempt from the requirement that the employer must furnish notice of the separation of 50 or more persons in a seven-day period at least three working days prior to the date of separation. The act removes this exemption. (Sec. 4141.28(B)(2).)

Notice to an employer

Under continuing law modified by the act, when an individual files an application for determination of benefit rights, the Director promptly must send, in writing, a notice to the individual's most recent separating employer stating that an application for benefits has been made. The notice asks the employer to respond to explain the reason for the individual's unemployment.

The act specifies that the Director need not send this type of notice if any of the following is true with respect to an individual's application for determination of benefit rights:

- (1) The Director is prohibited by law from revising a previous determination concerning whether the individual may be disqualified from receiving benefits;
- (2) The individual's employer indicates to the Director that the notice is not needed;
- (3) The individual's separation is one among 50 or more individuals separated by the same employer due to a lack of work, the Director received information regarding the separations as required by law, and the reason for the separation is not disputed. (Sec. 4141.28(B)(5).)

Suitable work

The act specifies that an individual who is provided temporary work assignments by the individual's employer under agreed terms and conditions of employment, and who is required pursuant to those terms and conditions to inquire with the individual's employer for available work assignments upon the conclusion of each work assignment, is not considered unable to obtain suitable employment if suitable work assignments are available with the employer but the individual fails to contact the employer to inquire about work assignments. Such an individual would thus not be entitled to a waiting period or benefits for that week under continuing law. (Sec. 4141.29(A)(5).)

Wage information disclosure

The act allows the Director to disclose wage information furnished to or maintained by the Director to a consumer reporting agency as defined by the federal Fair Credit Reporting Act for the purpose of verifying an individual's income under a written agreement that requires all of the following:¹

(1) A written statement of informed consent from the individual whose information is to be disclosed;

(2) A written statement confirming that the consumer reporting agency and any other entity to which the information is disclosed or released will safeguard the information from illegal or unauthorized disclosure;

(3) A written statement confirming that the consumer reporting agency will pay to the Department of Job and Family Services all costs associated with the disclosure.

The Director must prescribe a manner and format for the provision of the above-described information. (Sec. 4141.43(J).)

The act requires the Director to adopt rules defining the requirements of the release of individual income verification information which must include all terms and conditions necessary to meet the requirements of federal law as interpreted by the United States Department of Labor or considered necessary by the Director for the proper administration of this provision. (Sec. 4141.43(K).)

Type B family day-care homes and covered employment

Continuing law modified by the act specifies that certified type B family day-care homes are independent contractors and not employees of the county department of human services that issues certification. The act specifies that, notwithstanding the above provision, for purposes of the Unemployment Compensation Law, determinations concerning the employment of an authorized provider of a certified type B family day-care home must be determined under the Unemployment Compensation Law. (Sec. 5104.11(A)(3).)

Joint certification

Under former law, whenever the Director and the Chairperson of the Unemployment Compensation Review Commission determined in writing and certified jointly that a controversy existed with respect to the proper application of the Unemployment Compensation Law to more than 500 claimants similarly

¹ 15 U.S.C.A. 1681a.

situated whose claims were pending before the Director or the Review Commission or both on redetermination or appeal applied for or filed by three or more employers or by such claimants, the Chairperson had to select one claim which was representative of all of those claims and assign it for a fair hearing and decision. Any other claimant or employer in the group who made a timely request to participate in the hearing and decision also had to be given a reasonable opportunity to participate as a party to the proceeding.

Under former law, this type of joint certification by the Director and Chairperson constituted a stay of further proceedings in the claims of all claimants similarly situated until the issue or issues in controversy were adjudicated by the Supreme Court of Ohio. At the time the decision of the Commission was issued, the Chairperson had to certify the Commission's decision directly to the Supreme Court and file with the clerk of the Supreme Court a certified copy of the transcript of the proceedings before the Commission pertaining to its decision. Former law specified that hearings on these issues were to take precedence over all other civil cases. If upon hearing and consideration of the record, the Court decided that the decision of the Commission was unlawful, the Court had to reverse and vacate the decision or modify it and enter final judgment in accordance with the modification. Former law specified the procedure whereby the Commission had to notify interested parties of the decision. Promptly upon the final judgment of the Court, the Director and the Commission had to decide the claims pending before them where the facts were similar and had to notify, according to specified procedure, all interested parties of the decision and the reason for the decision. Former law also specified that the provision described above was not to be construed in a manner that would deny the opportunity for a fair hearing to a claimant.

The act eliminates this entire certification and expedited decision procedure. (Sec. 4141.28(N).)

Interest, forfeiture, and fines reduction authority

Under continuing law, an employer is assessed various monetary penalties in the form of interest, forfeiture, or fines when the employer fails to make various types of payments or file specified reports when due. The act authorizes the Director to reduce, in whole or in part, the amount of interest, forfeiture, or fines required to be paid under the Unemployment Compensation Law if the Director determines that the reduction is in the best interest of the Unemployment Compensation Fund. (Sec. 4141.23(E).)

Modify experience rate qualification standard

The Director must establish a contribution rate for each contributory employer subject to the Unemployment Compensation Law. The Director may

establish either a standard or experience rate for each contributory employer. The standard rate is utilized for new employers who do not meet the qualifications established for the experience rate.

Under former law, an employer qualified for the experience rate only if the employer had no more than three consecutive quarters without employment subject to the Unemployment Compensation Law during the first seven of the eight completed calendar quarters immediately prior to the computation date. The act modifies this qualification criterion, specifying instead that an employer qualifies only if there have been four consecutive quarters, ending on June 30 immediately prior to the computation date, throughout which the employer's account was chargeable with benefits. (Sec. 4141.25(A)(2).)

Information disclosure

The act requires the Director to disclose information furnished or maintained by the Director under the Unemployment Compensation Law upon request and on a reimbursable basis as required under the federal Social Security Act and the Internal Revenue Code. (Sec. 4141.43(L).)

Pamphlets

Under former law, the Director was required to furnish instructions in the form of a pamphlet to an individual who filed an application for determination of benefit rights. The pamphlet gave instructions for the steps an applicant could take if the applicant's claim for benefits was disallowed, including the applicant's right of appeal, the levels of appeal, and an explanation of where and when each appeal had to be filed. The act eliminates the requirement that these instructions be given in the specific form of a pamphlet thereby allowing the Director discretion to issue the instructions in any other or in multiple formats. (Sec. 4141.28(B)(1).)

Federal compliance

Under continuing law, the Director must cooperate with the United States Department of Labor to the fullest extent consistent with Ohio's Unemployment Compensation Law, and must take action, through the adoption of appropriate rules, regulations, and administrative methods and standards, as may be necessary to secure to the State of Ohio and its citizens, all advantages available under the provisions of specified federal acts related to unemployment compensation. To this list of specified federal acts, the act adds the "Workforce Investment Act of 1998."² (Sec. 4141.43(I).)

² 112 Stat. 936, 29 U.S.C.A. 2801 et seq.

Child support obligations

Under continuing law, the Director is required to deduct and withhold certain amounts from unemployment compensation payable to an individual who owes child support obligations. For applications to establish unemployment compensation benefit rights filed after December 27, 1997, the amount withheld with respect to a week of unemployment benefits must not exceed 50% of the individual's weekly benefit amount as determined by the Director.

The act shifts this provision from the Unemployment Compensation Law to the Court of Common Pleas Organization Law (R.C. Chapter 2301.). This shift does not appear to have any substantive effect on the provision. (Secs. 2301.371(B) and 4141.28(D)(4)(d).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-23-99	p. 1373
Reported, H. Commerce & Labor	01-26-00	p. 1574
Passed House (94-0)	02-16-00	p. 1604
Reported, S. Insurance, Commerce, & Labor	04-11-00	p. 1580
Passed Senate (32-0)	04-12-00	p. 1604
Concurrence (94-0)	05-02-00	p. 1846

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