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BILL ANALYSIS



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Senate Bill 962 (as introduced 6-26-24)
Sponsor: Senator John Cherry
Committee: Labor

Date Completed: 11-6-24

CONTENT

The bill would amend the Michigan Employment Security Act to do the following:

- **Allow an individual who was a victim of domestic violence to still be considered qualified for unemployment benefits after leaving work voluntarily if the individual left work because of that domestic violence.**
- **Modify the number of hardship waiver applications the Unemployment Insurance Agency (UIA) could consider when determining whether to waive recovery of improperly paid benefits.**
- **Prohibit the UIA from initiating recovery of improperly paid benefits until the UIA had reviewed the claim for all possible waivers to which the claimant could be entitled and issued a notice to the claimant containing additional information.**
- **Require a reduction in employees' work hours under an approved shared-work plan to be between 10% and 60%, instead of between 15% and 45%.**

Reinstated Eligibility for Domestic Violence Victims

Generally, the Act provides for the disbursement of unemployment benefits. To receive unemployment benefits, an individual must prove that the individual left work involuntarily or for good cause that was attributable to the employer or employing unit. If an individual leaves work voluntarily *without* good cause attributable to the employer or employing unit, that individual is ineligible for unemployment benefits; however, the Act exempts certain individuals from this disqualification.

Previously, an individual who left work voluntarily without good cause was still considered qualified for benefits if the individual was a victim of domestic violence and demonstrated to the UIA that the individual needed to discontinue employment or relocate to avoid further domestic violence or recover.¹ This exemption from disqualification sunset on March 31, 2021. The bill would reinstate this exemption from disqualification.

Modified Recovery of Improperly Paid Benefits

If the UIA determines that an individual improperly obtained benefits, or a subsequent determination by the UIA or a decision of an appellate authority reverses a prior qualification for benefits, the UIA may recover a sum equal to the amount received plus interest; however, if repayment is contrary to equity and good conscience, the UIA must waive the collection of restitution and interest. This waiver is prospective and does not apply to restitution and interest payments already made by the individual. The bill would delete the latter provision.

¹ See MCL 421.29a for more information concerning the exception for domestic violence.

Currently, "contrary to equity and good conscience" means any of the following:

- The claimant provided incorrect wage information without the intent to misrepresent, and the employer provided either no wage information upon request or provided inaccurate wage information that resulted in the overpayment.
- The claimant's average net household income and household cash assets, exclusive of social welfare benefits, were, during the six months immediately preceding the date of the application for waiver, at or below 150% of the annual update of the poverty guidelines most recently published in the Federal Register by the United States Department of Health and Human Services, and the claimant has applied for a waiver.

Under the definition, the UIA may not consider a new application for a waiver from a claimant within six months after receiving an application for a waiver from the claimant. A waiver applies from the date the application is filed. If the waiver is granted, the UIA must promptly refund any restitution or interest payments made by the individual after the date of the application for waiver. Under the bill, the UIA could not consider more than five additional hardship waiver applications from a claimant in a calendar year after receiving an application for a waiver from the claimant. Additionally, the UIA could not deny or refuse to consider an application for a waiver submitted by a claimant solely because the claimant had a pending appeal of one or more matters that generated the overpayment under consideration to be waived.

Currently, "cash assets" means cash on hand and funds in a checking or savings account. Under the bill, "cash assets" would mean cash *in excess of \$100,000* in a checking or savings account, *not including wages reported during that period*.

Additionally, the bill would prohibit the UIA from initiating recovery of improperly paid benefits until the UIA had reviewed the claim for all possible waivers to which the claimant could be entitled and issued a notice to the claimant that included all the following information:

- A list of the waivers for which eligibility was considered.
- The UIA's determination on the claimant's eligibility for each waiver, or if a determination could not be reached, the information needed to make a determination.
- The consequences of each determination on the claimant's benefit rights and any overpayment owed, including the issue or matter generating the overpayment and the weeks of benefits affected.
- The claimant's appeal rights with respect to the waivers and the underlying determination that generated the overpayment.

Redetermination

An interested party may request a hearing before an administrative law judge on a redetermination.² The UIA also may transfer a matter to an administrative law judge. The bill would provide that, if one or more matters were transferred, the administrative law judge could consider and rule on all matters pertinent to the claimant's benefit rights or to the liability of the claimant's former employing unit, regardless of whether that particular matter had been transferred.

² Generally, an interested party is a party whose statutory rights or obligations may be affected by the outcome of a determination, redetermination, or decision, regardless of whether the UIA is a party to an action or proceeding arising under that Code.

Shared-work Plan Requirements

The Act allows an employer or employing unit to submit a shared-work plan to the UIA. A shared-work plan is a plan for reducing unemployment under which employees of an affected unit share a reduced workload through reduction in their normal weekly hours of work. The UIA can only approve a shared-work plan if, among other requirements, the proposed reduction percentage is between 15% and 45%, or, until March 31, 2021, between 10% and 60%. Under the bill, the proposed reduction percentage would have to be between 10% to 60%.

MCL 421.28d et al.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have a fiscal impact on the UIA and no fiscal impact on local units of government. Increasing the benefit reduction percentage for shared-work plans, from between 15% and 45% to 10% and 60%, could increase the number of shared-work plans approved. About 1.5% of total UIA claims are from shared-work plans. Any increase in that rate could reduce the otherwise full unemployment benefit payments made by the UIA Trust Fund had the work-share plan not been allowable.

Postponing the timeframe for initiating the recovery of improperly paid benefits would have an indeterminate fiscal impact. Postponing the timeframe would delay the time when improperly paid benefits are paid back to the UIA Trust Fund; however, this process could reduce the number of false improperly paid benefit cases that are found through waivers or on appeal. This would only change when the State initiated a recovery of improperly paid benefits and not the waiver and appeal process, which would make additional administrative costs minimal and within current appropriations.

Fiscal Analyst: Cory Savino, PhD

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.