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Senate Bill 976 (as introduced 7-30-24)
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:

- **Require the Unemployment Insurance Agency (UIA) to comply with information disclosure requirements under Federal law.**
- **Require information in the UIA's possession that could affect an individual's claim for worker's disability compensation to be available to an interested party that had obtained or was seeking a reduction of the individual's worker's compensation benefits.**
- **Require an interested party to pay reasonable costs for an information request and to protect the confidentiality of the information received.**
- **Require the UIA to calculate its costs to process and handle requests for disclosure of information in its possession.**
- **Require any information in the UIA's possession to be made available in response to a court order or to an official with subpoena authority.**
- **Exempt from the Freedom of Information Act (FOIA) any records of the methods used by the UIA to identify and investigate fraudulent claims.**
- **Repeal Section 12a of the Act, which requires that any individual receiving payment to engage in a community work or training program or work experience program be entitled to benefits provided by the Workers Disability Compensation Act.**

Compliance with Federal Law

Section 11 of the Act requires the UIA to cooperate with the United States Department of Labor in the administration of unemployment insurance in the State and to comply with the appropriate Federal regulations relating to the receipt or expenditure of money paid to Michigan for the purpose of assisting in the administration of the Act. Under the bill, the UIA also would have to comply with 20 CFR 603.8 for any disclosure it made under Section 11.¹

Requirements for Disclosure of Information

Currently, information obtained from an employing unit or individual pursuant to the administration of the Act and determinations about individuals' benefit rights are confidential and must not be disclosed or open to public inspection other than to public employees and public officials in performing official duties under the Act and to agents or contractors of those public officials; however, the Act prescribes certain exceptions.

¹ 20 CFR 603.8 prescribes confidentiality requirements for information disclosures by unemployment compensation programs receiving Federal funding.

Among other exceptions, the Act specifies that information in the UIA's possession that may affect an individual's claim for worker's disability compensation under the Worker's Disability Compensation Act must be available to 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 the Code. Instead, under the bill, information in the UIA's possession that could affect an individual's claim for worker's disability compensation under the Worker's Disability Compensation Act would have to be available to such an interested party that had obtained or was seeking a reduction of the individual's compensation benefits under the Act, regardless of whether the UIA was a party to an action or proceeding arising under that Michigan Employment Security Act. All the following would apply to an interested party that was provided with information in this provision:

- The interested party would be entitled to receive only an uncertified printout of the unemployment benefits paid to the individual from the individual's date of injury to present day.
- The interested party would have to pay reasonable costs, as determined by the UIA, for processing the interested party's request for information, copying, and producing the list of the individual's unemployment benefit payments.
- The interested party would have to protect the confidentiality of the information it received from the UIA and prevent disclosure of that information for any purpose that was unrelated to the individual's worker's compensation claim.

The Act also allows information in the UIA's possession to be made available to any State agency, any other State, or the Federal government, subject to the UIA's rules. The bill would specify that State agencies would include the Michigan Center for Data and Analytics.

In addition, the bill specifies that the following provisions would apply to information obtained in the administration of the Act:

- Any information in the UIA's possession would have to be made available in response to a court order or to an official with subpoena authority in accordance with 20 CFR 603.7(b).²
- Except as otherwise provided, any records of the methods used by the UIA to identify and investigate fraudulent claims would be exempt from FOIA.
- Subject to the requirements of 20 CFR 603.8, the UIA would have to calculate its costs to process and handle requests for disclosure of information in its possession, and the recipient of the disclosure of information would have to pay the costs calculated by the UIA unless the costs reflected an incidental amount of UIA staff time and were nominal or the UIA had a reciprocal cost agreement with the person that received the disclosure in which relative benefits to the UIA and the recipient were approximately equal.

MCL 421.11 et al.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have a minimal fiscal impact on the State and no fiscal impact on local units of government. The bill would formalize processes for disclosure of information requests. This could increase the number of disclosures made by the UIA, which could increase costs. Any significant costs would be supported by information request fees.

Fiscal Analyst: Cory Savino, PhD

² 20 CFR 603.7(b) prescribes circumstances in which state unemployment compensation programs must disclose otherwise confidential information in accordance with subpoenas.

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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.