

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024**

Introduced by Senator Cherry

ENROLLED SENATE BILL No. 962

AN ACT to amend 1936 (Ex Sess) PA 1, entitled “An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of this act; and to repeal all acts and parts of acts inconsistent with this act,” by amending sections 28, 28d, 29a, 32a, 33, and 62 (MCL 421.28, 421.28d, 421.29a, 421.32a, 421.33, and 421.62), section 28 as amended by 2022 PA 18, section 28d as amended and section 29a as added by 2020 PA 258, section 32a as amended by 2017 PA 232, section 33 as amended by 2011 PA 269, and section 62 as amended by 2017 PA 231.

The People of the State of Michigan enact:

Sec. 28. (1) An unemployed individual is eligible to receive benefits with respect to any week only if the unemployment insurance agency finds all of the following:

(a) The individual registered for work pursuant to subsection (11) after the individual applied for benefits and within the time period prescribed by the unemployment agency, has continued to report pursuant to unemployment insurance agency rules, and is actively engaged in seeking work. The requirements that the individual must report, must register for work, must be available to perform suitable full-time work, and must seek work may be waived by the unemployment insurance agency if the individual is laid off and the employer that laid the individual off notifies the unemployment insurance agency in writing or by computerized data exchange that the layoff is temporary and that work is expected to be available for the individual within a declared number of days, not to exceed 45 calendar days, plus up to an additional 90 calendar days as provided for in subsection (12), following the last day the individual worked. Except as otherwise provided in subsection (13), this

waiver is not effective unless the notification from the employer is received by the unemployment insurance agency before the individual has completed the individual's first compensable week following layoff. If the individual is not recalled within the specified period, the waiver ceases to be operative with respect to that layoff. Except for a period of disqualification, the requirement that the individual seek work may be waived by the unemployment insurance agency if it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period. This waiver does not apply to a claimant enrolled and attending classes as a full-time student. An individual is considered to have satisfied the requirement of personal reporting at an employment office, as applied to a week in a period during which the requirements of registration and seeking work have been waived by the unemployment insurance agency pursuant to this subdivision, if the individual has satisfied the personal reporting requirement with respect to a preceding week in that period and the individual has reported with respect to the week by mail pursuant to the rules promulgated by the unemployment agency.

(b) The individual has made a claim for benefits pursuant to section 32 and has provided the unemployment insurance agency with all of the following:

(i) The individual's Social Security number.

(ii) The individual's driver license number, and the state that issued the license, or state identification card number, and the state that issued the identification card, or copies of the acceptable documents as provided in the Form I-9.

(iii) If the unemployment insurance agency has requested them, copies of the acceptable documents as provided in the Form I-9. As used in this subdivision, "Form I-9" means the employment verification form that fulfills the employment verification obligations under 8 CFR 274a.2.

(c) The individual is able and available to appear at a location of the unemployment agency's choosing for evaluation of eligibility for benefits, if required, and to perform suitable full-time work of a character that the individual is qualified to perform by past experience or training, which is of a character generally similar to work for which the individual has previously received wages, and for which the individual is available, full time, either at a locality at which the individual earned wages for insured work during the individual's base period or at a locality where it is found by the unemployment insurance agency that such work is available. Notwithstanding any other provision of this act, for all claims filed after March 1, 2020, and established under the federal pandemic unemployment assistance program, with respect to the able and available requirements, an individual must be able and available to perform suitable full- or part-time work. An individual is considered unavailable for work under any of the following circumstances:

(i) The individual fails during a benefit year to notify or update a chargeable employer with telephone, email, or other information sufficient to allow the employer to contact the individual about available work.

(ii) The individual fails, without good cause, to respond to the unemployment insurance agency within 14 calendar days of the later of the mailing of a notice to the address of record requiring the individual to contact the unemployment insurance agency or of the leaving of a telephone message requesting a return call and providing a return name and telephone number on an automated answering device or with an individual answering the telephone number of record.

(iii) Unless the claimant shows good cause for failure to respond, mail sent to the individual's address of record is returned as undeliverable and the telephone number of record has been disconnected or changed or is otherwise no longer associated with the individual.

(d) In the event of the death of an individual's immediate family member, the eligibility requirements of availability and reporting are waived for the day of the death and for 4 consecutive calendar days after the day of the death. As used in this subdivision, "immediate family member" means a spouse, child, stepchild, adopted child, grandchild, parent, grandparent, brother, or sister of the individual or the individual's spouse. Immediate family member includes the spouse of any of the individuals specified in the previous sentence.

(e) The individual participates in reemployment services, such as job search assistance services, if the individual has been determined or redetermined by the unemployment insurance agency to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the unemployment agency.

(2) The unemployment insurance agency may authorize an individual with an unexpired benefit year to pursue vocational training or retraining only if the unemployment insurance agency finds all of the following:

(a) Reasonable opportunities for employment in occupations for which the individual is fitted by training and experience do not exist in the locality in which the individual is claiming benefits.

(b) The vocational training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities.

(c) The training course has been approved by a local advisory council on which both management and labor are represented, or if there is no local advisory council, by the unemployment agency.

(d) The individual has the required qualifications and aptitudes to complete the course successfully.

(e) The vocational training course has been approved by the state board of education and is maintained by a public or private school or by the unemployment agency.

(3) Notwithstanding any other provision of this act, an otherwise eligible individual is not ineligible for benefits because the individual is participating in training with the approval of the unemployment agency. For each week that the unemployment insurance agency finds that an individual who is claiming benefits under this act and who is participating in training with the approval of the unemployment agency, is satisfactorily pursuing an approved course of vocational training, the unemployment insurance agency shall waive the requirements that the individual be available for work and be seeking work as prescribed in subsection (1)(a) and (c), and shall find good cause for the individual's failure to apply for suitable work, report to a former employer for an interview concerning suitable work, or accept suitable work as required in section 29(1)(c), (d), and (e).

(4) Notwithstanding any other provisions of this act, an otherwise eligible individual must not be denied benefits solely because the individual is in training approved under section 236(a)(1) of the trade act of 1974, 19 USC 2296, nor shall the individual be denied benefits by reason of leaving work to enter such training if the work left is not suitable employment. Furthermore, an otherwise eligible individual must not be denied benefits because of the application to any such week in training of provisions of this act, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the trade act of 1974, 19 USC 2101 to 2497b, and wages for that work at not less than 80% of the individual's average weekly wage as determined for the purposes of the trade act of 1974, 19 USC 2101 to 2497b.

(5) Except as otherwise provided in subsections (6) and (7), for purposes of this section, for benefit years beginning on or after January 1, 2013, to be actively engaged in seeking work, an individual must conduct a systematic and sustained search for work in each week the individual is claiming benefits, using any of the following methods to report the details of the work search:

(a) Reporting at monthly intervals on the unemployment agency's online reporting system the name of each employer and physical or online location of each employer where work was sought and the date and method by which work was sought with each employer.

(b) Filing a written report with the unemployment insurance agency by mail or facsimile transmission not later than the end of the fourth calendar week after the end of the week in which the individual engaged in the work search, on a form approved by the unemployment agency, indicating the name of each employer and physical or online location of each employer where work was sought and the date and method by which work was sought with each employer.

(c) Appearing at least monthly in person at a Michigan works agency office to report the name and physical or online location of each employer where the individual sought work during the previous month and the date and method by which work was sought with each employer.

(6) Except as otherwise provided in subsection (7), for purposes of this section, beginning on April 2, 2020, to be actively engaged in seeking work, an individual must conduct a systematic and sustained search for work in each week the individual is claiming benefits and must report to the unemployment insurance agency the details of the work search at least once every 2 weeks or, if the unemployment insurance agency prescribes a shorter reporting period, the reporting period prescribed by the unemployment agency. An individual may conduct a systematic and sustained search for work by doing any of the following:

(a) Using resources available at a Michigan works agency office to do any of the following:

(i) Participate in reemployment services and eligibility assessment activities.

(ii) Identify the skills the individual possesses that are consistent with target or demand occupations in the local workforce development area.

(iii) Obtain job postings and seek employment for suitable positions needed by local employers.

(b) Attending job search seminars or other employment workshops that offer instruction in improving an individual's skills for finding and obtaining employment.

(c) Creating a user profile on a professional networking site or using an online career tool. Creating duplicate user profiles or resubmitting or reuploading the same resume to the same professional networking site does not satisfy the requirements of this subdivision.

(d) Applying for an available position with, submitting a resume to, or interviewing with employers. Applying for the same position within a 4-week period or contacting an employer to determine whether a position is available does not satisfy the requirements of this subdivision, unless the individual uses the individual's union hiring hall to conduct a search for work.

(e) Registering for work with a private employment agency or, if it is available to the individual in the individual's occupation or profession, the placement facility of a school, college, or university.

(f) Taking an examination that is required for a position in the state civil service.

(7) For purposes of this section, beginning January 1, 2025, an individual meets the requirement to conduct a systemic and sustained search for work under subsection (6) if the individual does any of the activities listed under subsection (6)(a) to (f) not fewer than 3 times in each week the individual is claiming benefits.

(8) The work search conducted by the claimant is subject to audit by the unemployment agency.

(9) The unemployment insurance agency shall request but shall not require an individual who is applying for benefits to submit the individual's base period employer's unemployment insurance agency account number and federal employer identification number.

(10) The unemployment insurance agency shall use all of the documentation and information provided by an individual applying for benefits to verify the identity of the individual before making an initial payment on the individual's claim.

(11) An individual must register for work as required under subsection (1)(a) by registering with a Michigan works agency.

(12) The unemployment insurance agency may extend a waiver described in subsection (1)(a) beyond 45 calendar days, but not for more than an additional 90 calendar days, if, before the end of the specified period of the waiver, the employer notifies the unemployment insurance agency in writing or by computerized data exchange that the layoff is an extended layoff and is the result of 1 or more of the following:

(a) The retooling of the employer's equipment.

(b) A parts shortage.

(c) A temporary production volume adjustment.

(13) If an individual is laid off because of an extended layoff described in subsection (12) that existed on May 31, 2021, the requirements that the individual must report, must register for work, must be available to perform suitable full-time work, and must seek work may be waived by the unemployment insurance agency as described in subsection (1)(a) if, before July 16, 2021, the individual's employer notifies the unemployment insurance agency under subsection (12) that the individual was laid off because of an extended layoff described in subsection (12). The specified period of a waiver granted under this subsection begins on May 31, 2021.

Sec. 28d. (1) The unemployment insurance agency shall approve a shared-work plan only if the plan meets all of the following requirements:

(a) The shared-work plan applies to 1 affected unit.

(b) All employees in the affected unit are participating employees, except that, until March 31, 2021, an employee whose hours of work per week determined under subdivision (e) are 40 or more hours must not be a participating employee.

(c) There are no fewer than 2 participating employees, determined without regard to corporate officers.

(d) The participating employees are identified by name and Social Security number.

(e) The number of hours a participating employee will work each week during the effective period of the shared-work plan is the number of the employee's normal weekly hours of work reduced by the reduction percentage.

(f) The plan includes an estimate of the number of employees who would have been laid off if the plan were not implemented.

(g) The plan indicates the manner in which the employer will give advance notice, if feasible, to an employee whose hours of work per week under the plan will be reduced.

(h) As a result of a decrease in the number of hours worked by each participating employee, there is a corresponding reduction in wages.

(i) The shared-work plan does not affect the fringe benefits of any participating employee.

(j) The specified effective period of the shared-work plan is 52 consecutive weeks or less and the benefits payable under the shared-work plan will not exceed 20 times the weekly benefit amount for each participating employee, calculated without regard to any existing benefit year.

(k) The reduction percentage satisfies the requirements of subsection (2).

(2) The reduction percentage under an approved shared-work plan must meet all of the following requirements:

(a) The reduction percentage must be not less than 10% and not more than 60%.

(b) The reduction percentage must be the same for all participating employees.

(c) The reduction percentage must not change during the period of the shared-work plan unless the plan is modified in accordance with section 28i.

Sec. 29a. (1) Notwithstanding any other provision of this act, an otherwise eligible individual, as described in section 29(1)(a)(iv), is not disqualified from receiving benefits if the individual demonstrates to the commission that the reason for the individual's leaving work is due to domestic violence, including 1 or more of the following:

(a) The individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment.

(b) The individual's need to relocate to another geographic area to avoid future domestic violence.

(c) The individual's need to address the physical, psychological, or legal effects of domestic violence.

(d) The individual's need to leave employment as a condition of receiving services or shelter from an agency that provides support services or shelter to victims of domestic violence.

(e) The individual's reasonable belief that termination of employment is necessary for the future safety of the individual or the individual's family because of domestic violence.

(2) An individual may demonstrate to the unemployment insurance agency the existence of domestic violence by providing 1 or more documents, including, but not limited to, the following:

(a) A restraining order or other documentation of equitable relief issued by a court of competent jurisdiction in a domestic violence case.

(b) A police record documenting domestic violence.

(c) Documentation that the perpetrator of the domestic violence against the individual making a claim for benefits under this act has been convicted of a crime involving domestic violence.

(d) Medical documentation of domestic violence.

(e) A statement provided on business or organization letterhead by a counselor, social worker, health worker, member of the clergy, shelter worker, attorney, or other professional who has assisted the individual in addressing the effects of the domestic violence on the individual or the individual's family.

(3) The unemployment insurance agency shall not disclose evidence of domestic violence experienced by an individual, including the individual's statement or corroborating evidence.

(4) As used in this section:

(a) "Domestic violence" means any of the following that are not acts of self-defense:

(i) Causing or attempting to cause physical or mental harm to a family or household member.

(ii) Placing a family or household member in fear of physical or mental harm.

(iii) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(iv) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(b) "Family or household member" includes any of the following:

(i) A spouse or former spouse.

(ii) An individual with whom the person resides or has resided.

(iii) An individual with whom the person has or has had a dating relationship.

(iv) An individual with whom the person is or has engaged in a sexual relationship.

(v) An individual to whom the person is related or was formerly related by marriage.

(vi) An individual with whom the person has a child in common.

(vii) The minor child of an individual described in subparagraphs (i) to (vi).

Sec. 32a. (1) Upon application by an interested party for review of a determination, upon request for transfer to an administrative law judge for a hearing filed with the unemployment agency not more than 30 days after the mailing or personal service of a notice of determination, or upon the unemployment insurance agency's own motion within that 30-day period, the unemployment agency shall review any determination. After review, the unemployment insurance agency shall in its discretion issue a redetermination affirming, modifying, or reversing the prior determination and stating the reasons for the redetermination, or may transfer the matter to an administrative law judge for a hearing. If the unemployment agency issues a redetermination, it shall promptly notify the interested parties of the redetermination. The redetermination is final unless not more than 30 days after the mailing or personal service of a notice of the redetermination an appeal is filed with the unemployment agency for a hearing on the redetermination before an administrative law judge pursuant to section 33.

(2) The unemployment insurance agency shall, for good cause, including an administrative clerical error or evidence produced by an interested party showing that a prior determination or redetermination was not sent to the interested party's correct address or an address ascertained under subsection (5), reconsider a prior determination or redetermination after the 30-day period has expired and after reconsideration issue a

redetermination affirming, modifying, or reversing the prior determination or redetermination, or transfer the matter to an administrative law judge for a hearing. A reconsideration must not be made unless the request is filed with the unemployment insurance agency, or reconsideration is initiated by the unemployment agency with notice to the interested parties, not more than 1 year after the date of mailing or personal service of the original determination on the disputed issue or, if the original determination involved a finding of fraud, not more than 3 years after the date of mailing or personal service of the original determination.

(3) If an interested party fails to file a protest within the 30-day period and the unemployment insurance agency for good cause reconsiders a prior determination or redetermination and issues a redetermination, a disqualification, or an ineligibility imposed thereunder, other than an ineligibility imposed due to receipt of retroactive pay, the redetermination, disqualification, or ineligibility does not apply to a compensable period for which benefits were paid or are payable unless the benefits were obtained as a result of an administrative clerical error, a false statement, or a nondisclosure or misrepresentation of a material fact by the claimant. However, the redetermination is final unless not more than 30 days after the date of mailing or personal service of the notice of redetermination an appeal is filed for a hearing on the redetermination before an administrative law judge pursuant to section 33.

(4) In addition to the transfer provisions in subsections (1) and (2), both of the following apply:

(a) If both the claimant and the employer agree, the matter may be transferred directly to an administrative law judge in a case involving the payment of unemployment benefits.

(b) If both the unemployment insurance agency and the employer agree, the matter may be transferred directly to an administrative law judge in a case involving unemployment contributions or reimbursements in lieu of contributions.

(5) If a determination or redetermination includes a finding that an interested party committed fraud, the unemployment insurance agency shall, in addition to sending the determination or redetermination to the interested party's address of record, ascertain from the department of state, the department of treasury, and the United States Postal Service other known mailing addresses of the interested party and send the determination or redetermination to the most recent address.

(6) A claimant, employer, or interested party shall, during a benefit year, notify the unemployment agency of a change in its mailing address.

(7) Upon filing an appeal for a hearing on a redetermination issued under subsection (1), an interested party may include a request for consolidation of another matter to be reviewed at a hearing as described in section 33. Upon receipt of the request for consolidation, the unemployment insurance agency shall consolidate all matters for transfer to an administrative law judge for a hearing on the matters listed in the request for consolidation. A matter listed on the request for consolidation must be consolidated if 1 of the following conditions is met:

(a) An application for review of a determination for the listed matter was submitted under subsection (1) not less than 30 days before the interested party's request for consolidation. The unemployment agency shall stop a review of the determination and not issue a redetermination of the matter that is consolidated under this subdivision.

(b) The unemployment insurance agency has previously issued a redetermination of the listed matter under this section, and the interested party filed a timely appeal for a hearing on the redetermination. If the interested party has not filed an appeal for a hearing on the redetermination of the listed matter before the interested party submitted a request for consolidation, but the appeal otherwise would be timely or the interested party has good cause for a late appeal, the interested party may file an appeal for a hearing for a redetermination of the listed matter at the same time that the interested party made the request for consolidation.

(8) Subsection (7) must not be construed to limit an administrative law judge's authority to consolidate matters to be reviewed at a hearing as described in section 33.

Sec. 33. (1) An appeal from a redetermination issued by the unemployment insurance agency in accordance with section 32a or a matter transferred for hearing and decision in accordance with section 32a must be referred to the Michigan administrative hearing system for assignment to an administrative law judge. If the agency transfers a matter, or an interested party requests a hearing before an administrative law judge on a redetermination, all matters pertinent to the claimant's benefit rights or to the liability of the employing unit under this act must be referred to the administrative law judge. The administrative law judge shall afford all interested parties a reasonable opportunity for a fair hearing and, unless the appeal is withdrawn, the administrative law judge shall decide the rights of the interested parties and shall notify the interested parties of the decision, setting forth the findings of fact upon which the decision is based, together with the reasons for the decision. With respect to an appeal from a denial of redetermination, if the administrative law judge finds that

there was good cause for issuing a redetermination, the denial is a redetermination affirming the determination and the appeal from the denial is an appeal from that affirmance. Unless an interested party would be unduly prejudiced, an administrative law judge may consolidate cases involving the same or substantially similar evidence or issues, hear the consolidated cases at the same date and time, create a single record of proceedings, and consider evidence introduced in 1 of those cases in the other cases. If the appellant fails to appear or prosecute the appeal, the administrative law judge may dismiss the proceedings or take other action considered advisable. An administrative law judge may, either upon application for rehearing by an interested party or on the administrative law judge's own motion, proceed to rehear, affirm, modify, set aside, or reverse a prior decision on the basis of the evidence previously submitted in the case, or on the basis of additional evidence. The application or motion must be made within 30 days after the date of mailing of the decision. The administrative law judge may, for good cause, reopen and review a prior decision and issue a new decision after the 30-day appeal period has expired. A request for review must be made within 1 year after the date of mailing of the prior decision. An administrative law judge shall not participate in a case in which the administrative law judge has a direct or indirect interest.

(2) Within 30 days after the mailing of a copy of a decision of the administrative law judge or of a denial of a motion for rehearing, an interested party may file an appeal to the Michigan compensation appellate commission, and unless such an appeal is filed, the decision or denial by the administrative law judge is final.

Sec. 62. (a) Subject to subsection (h), if the unemployment insurance agency determines that an individual has obtained benefits to which the individual is not entitled, or a subsequent determination by the agency or a decision of an appellate authority reverses a prior qualification for benefits, the agency may recover a sum equal to the amount received plus interest pursuant to section 15(a) by 1 or more of the following methods: deduction from benefits or wages payable to the individual, payment by the individual in cash, or deduction from a tax refund payable to the individual as provided under section 30a of 1941 PA 122, MCL 205.30a. Deduction from benefits or wages payable to the individual is limited to not more than 50% of each payment due the claimant. The unemployment insurance agency shall issue a determination requiring restitution within 3 years after the date of finality of a determination, redetermination, or decision reversing a previous finding of benefit entitlement. Except in the case of benefits improperly paid because of suspected identity fraud, the unemployment insurance agency shall not initiate administrative or court action to recover improperly paid benefits from an individual more than 3 years after the date that the last determination, redetermination, or decision establishing restitution is final. Except in the case of benefits improperly paid because of suspected identity fraud, the unemployment insurance agency shall issue a restitution determination on an issue within 3 years from the date the claimant first received benefits in the benefit year in which the issue arose, or in the case of an issue of intentional false statement, misrepresentation, or concealment of material information in violation of section 54(a) or (b) or sections 54a to 54c, within 3 years after the receipt of the improperly paid benefits unless the unemployment insurance agency filed a civil action in a court within the 3-year period; the individual made an intentional false statement, misrepresentation, or concealment of material information to obtain the benefits; or the unemployment insurance agency issued a determination requiring restitution within the 3-year period. The time limits in this section do not prohibit the unemployment insurance agency from pursuing collection methods to recover the amounts found to have been improperly paid. Except in a case of an intentional false statement, misrepresentation, or concealment of material information, the unemployment insurance agency shall waive recovery of an improperly paid benefit if repayment would be contrary to equity and good conscience and shall waive any interest. As used in this subsection, "contrary to equity and good conscience" means any of the following:

(i) 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. A waiver granted under the conditions described in this subdivision applies from 30 days after the incorrect wage information was first reported to the unemployment insurance agency.

(ii) The claimant's average net household income and household cash assets, exclusive of social welfare benefits and unemployment insurance benefits, were, during the 6 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 under the authority of 42 USC 9902(2), and the claimant has applied for a waiver under this subsection. The unemployment insurance agency shall not consider more than 3 additional hardship waiver applications from a claimant in a calendar year after receiving an application for a waiver from the claimant. A claimant may not file a new hardship waiver application until a determination, redetermination, administrative decision, or judicial decision regarding the initial application for waiver is final. A waiver granted under the conditions described in this subdivision applies from the date the application is filed. If the waiver is granted, the unemployment insurance agency shall promptly refund any restitution or interest payments made by the individual after the date of the application for waiver.

The unemployment insurance agency shall not deny or refuse to consider an application for a waiver of restitution submitted by a claimant for any matter that has received a final adjudication solely because the claimant has a pending appeal of 1 or more matters that generated the overpayment under consideration to be waived. As used in this subdivision:

(A) "Cash assets" means cash in excess of \$100,000.00 in a checking or savings account, not including wages reported during that period.

(B) "Dependent" means that term as defined in section 27(b)(4).

(C) "Household" means a claimant and the claimant's dependents.

(iii) The improper payments resulted from an administrative or clerical error by the unemployment agency. A requirement to repay benefits as the result of a change in judgment at any level of administrative adjudication or court decision concerning the facts or application of law to a claim adjudication is not an administrative or clerical error for purposes of this subdivision. A waiver granted under the conditions described in this subdivision applies from the date that the administrative or clerical error occurred. If the date the error occurred cannot be determined, the waiver applies from the first day of the first week that the improper payments for which the waiver is being sought began.

(b) If the unemployment insurance agency determines that a claimant has intentionally made a false statement or misrepresentation or has concealed material information to obtain benefits, whether or not the claimant obtains benefits by or because of the intentional false statement, misrepresentation, or concealment of material information, the unemployment insurance agency shall, in addition to any other applicable interest and penalties, cancel the claimant's rights to benefits for the benefit year in which the act occurred as of the date the claimant made the false statement or misrepresentation or concealed material information, and shall not use wages used to establish that benefit year to establish another benefit year. A chargeable employer may protest a claim filed after October 1, 2014 to establish a successive benefit year under section 46(c), if there was a determination by the unemployment insurance agency or decision of a court or administrative tribunal finding that the claimant made a false statement, made a misrepresentation, or concealed material information related to the claimant's report of earnings for a preceding benefit year claim. If a protest is made, the unemployment insurance agency shall not use any unreported earnings from the preceding benefit year that were falsely stated, misrepresented, or concealed to establish a benefit year for a successive claim. Before receiving benefits in a benefit year established within 4 years after cancellation of rights to benefits under this subsection, the claimant, in addition to making the restitution of benefits established under subsection (a), may be liable for an additional amount as otherwise determined by the unemployment insurance agency under this act, which may be paid by cash, deduction from benefits, or deduction from a tax refund. The claimant is liable for any fee the federal government imposes with respect to instituting a deduction from a federal tax refund. Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 50% limitation provided in subsection (a).

(c) Any determination made by the unemployment insurance agency under this section is final unless an application for a redetermination is filed in accordance with section 32a.

(d) The unemployment insurance agency shall take the action necessary to recover all benefits improperly obtained or paid under this act, and to enforce all interest and penalties under subsection (b). The unemployment insurance agency may conduct an amnesty program for a designated period under which penalties and interest assessed against an individual owing restitution for improperly paid benefits may be waived if the individual pays the full amount of restitution owing within the period specified by the agency.

(e) Interest recovered under this section must be deposited in the contingent fund.

(f) The unemployment insurance agency shall not make a determination that a claimant made an intentional false statement, misrepresentation, or concealment of material information that is subject to sanctions under this section based solely on a computer-identified discrepancy in information supplied by the claimant or employer. An unemployment insurance agency employee or agent must examine the facts and independently determine that the claimant or the employer is responsible for a willful or intentional violation before the agency makes a determination under this section.

(g) By January 31 each year, beginning in 2019, the unemployment insurance agency shall provide a written report regarding waivers under subsection (a)(ii) to the chairpersons of the standing committees and the appropriations subcommittees of the house of representatives and senate having jurisdiction over legislation pertaining to employment security. The report must include all of the following information from the immediately preceding calendar year in a form that does not identify an individual, claimant, or employer:

(i) The procedures relating to waivers that the unemployment insurance agency used or adopted.

(ii) The number of applications for a waiver the unemployment insurance agency received.

(iii) The number of individuals who submitted an application for a waiver.

(iv) The number of waivers that were granted by each of the following methods:

- (A) An unemployment insurance agency determination.
- (B) An unemployment insurance agency redetermination.
- (C) An administrative law judge order.
- (D) A Michigan compensation appellate commission order.
- (E) A court order.

(v) The number of waivers that were denied, tabulated by the reason for the denial, by each of the following methods:

- (A) An unemployment insurance agency determination.
- (B) An unemployment insurance agency redetermination.
- (C) An administrative law judge order.
- (D) A Michigan compensation appellate commission order.
- (E) A court order.

(vi) The total amount of restitution waived.

(h) The unemployment insurance agency shall not initiate recovery of improperly paid benefits under subsection (a) until the unemployment insurance agency has reviewed the claim for eligibility to receive a waiver under subsection (a)(i) and (iii) to which the claimant may be entitled and issued a notice to the claimant that includes all of the following information:

(i) A determination of eligibility for each waiver for which eligibility was considered or, if a determination could not be reached, the information the unemployment insurance agency needs to make a determination.

(ii) 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.

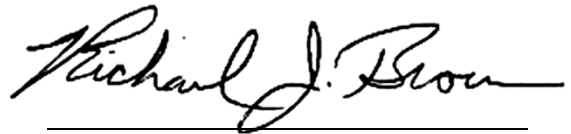
(iii) The claimant's protest and appeal rights with respect to the determination or redetermination on the claimant's eligibility for a waiver and the underlying determination or redetermination that generated the overpayment.

Enacting section 1. This amendatory act takes effect 18 months after the date it was enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 40 of the 102nd Legislature is enacted into law.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor