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Act No. 83

Public Acts of 2020

Approved by the Governor

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STATE OF MICHIGAN

100TH LEGISLATURE

REGULAR SESSION OF 2020

Introduced by Senators Horn and McMorrow

ENROLLED SENATE BILL NO. 812

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 section 28 (MCL 421.28), as amended by 2017 PA 228.

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 agency finds all of the following:

(a) The individual has registered for work and has continued to report pursuant to unemployment 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 agency if the individual is laid off and the employer who laid the individual off notifies the unemployment 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 following the last day the individual worked. This waiver is not effective unless the notification from the employer is received by the unemployment agency before the individual has completed his or her 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 shall seek work may be waived by the unemployment 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 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 agency with all of the following:

(*i*) His or her Social Security number.

(*ii*) His or her 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 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 his or her base period or at a locality where it is found by the unemployment agency that such work is available. 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, electronic mail, 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 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 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 thereafter. 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 his or her spouse. It shall also include the spouse of any of the persons 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 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 agency may authorize an individual with an unexpired benefit year to pursue vocational training or retraining only if the unemployment 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 he or she is participating in training with the approval of the unemployment agency. For each week that the unemployment 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, it shall waive the requirements that he or she be available for work and be seeking work as prescribed in subsection (1)(a) and (c), and it shall find good cause for his or her 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) The waiver of the requirement that a claimant seek work under subsection (1)(a) is not applicable to weeks of unemployment for which the claimant is claiming extended benefits and to which section 64(7)(a)(*ii*) applies, unless the individual is participating in training

approved by the unemployment agency.

(5) 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.

(6) Except as otherwise provided in subsection (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 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.

(7) For purposes of this section, beginning on the effective date of the amendatory act that added this subsection, 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 agency the details of the work search at least once every 2 weeks or, if the unemployment 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 his or her 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 his or her 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.

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

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

(10) The unemployment 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.

This act is ordered to take immediate effect.

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