

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1071, L.D. 1454)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1730

H.P. 1267 House of Representatives, June 3, 1987
Reported by Representative WILLEY from the Committee on
Labor and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored by Representative ZIRNKILTON of
Mount Desert. Cosponsored by Representatives DUTREMBLE of
Biddeford, TAMMARO of Baileyville, and HEPBURN of Skowhegan.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Relating to Determination of Benefit
2 Claims under the Unemployment
3 Compensation Law.
4

5 Be it enacted by the People of the State of Maine as
6 follows:

7 Sec. 1. 26 MRSA §1193, sub-§1, ¶A, as amended by
8 PL 1979, c. 651, §46, is further amended to read:

9 A. For the week in which he left his regular em-
10 ployment voluntarily without good cause attribut-
11 able to such that employment, or to a claimant
12 who has voluntarily removed himself from the la-
13 bor market where presently employed to an area
14 where employment opportunity is less frequent, if
15 so found by the deputy, and disqualification

1 shall continue until claimant has earned 4 times
2 his weekly benefit amount in employment by an em-
3 ployer; provided no disqualification shall may be
4 imposed if the individual establishes that he
5 left employment in good faith and accepted new
6 employment on a permanent full-time basis and he
7 became separated from the new employment for good
8 cause attributable to employment with the new em-
9 ploying unit. Leaving work shall not be consid-
10 ered voluntary without good cause when it is
11 caused by the illness or disability of the claim-
12 ant or of his immediate family and the claimant
13 took all reasonable precautions to protect his
14 employment status by having promptly notified his
15 employer as to the reasons for his absence and by
16 promptly requesting reemployment when he is again
17 able to resume employment; nor shall may leaving
18 work be considered voluntary without good cause
19 if the leaving was necessary for the claimant to
20 accompany, follow or join his spouse in a new
21 place of residence and he can clearly show within
22 7 14 days upon arrival at the new place of resi-
23 dence an attachment to the new labor market and
24 the claimant is in all respects able, available
25 and actively seeking suitable work;

26 Sec. 2. 26 M RSA §1194, sub-§2, as amended by PL
27 1985, c. 348, §7, is further amended to read:

28 2. Determination. A representative designated
29 by the commissioner, and in this chapter referred to
30 as a deputy, shall promptly examine the first claim
31 filed by a claimant in each benefit year and shall
32 determine the weekly benefit amount and maximum bene-
33 fit amount potentially payable to the claimant during
34 that benefit year in accordance with section 1192,
35 subsection 5.

36 The deputy shall promptly examine all subsequent
37 claims filed and, on the basis of the facts found by
38 him, shall determine whether or not that claim is
39 valid with respect to sections 1192 and 1193, other
40 than section 1192, subsection 5, or shall refer that
41 claim or any question involved therein to an appeal
42 tribunal or to the commission, which shall make a de-
43 termination with respect thereto in accordance with
44 the procedure described in subsection 3, except that

1 in any case in which the payment or denial of benefits will be subject to section 1193, subsection 4,
2 the deputy shall promptly transmit a report with respect to that subsection to the Director of Unemployment Compensation upon the basis of which the director shall notify appropriate deputies as to the applicability of that subsection.
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8 The deputy shall determine in accordance with section 1221, subsection 3, paragraph A, the proper employer's experience rating record, if any, against which benefits of an eligible individual shall be charged, if and when paid.
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13 The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons therefor. Subject to subsection 11, unless the claimant or any such interested party, within 15 calendar days after that notification was mailed to his last known address, files an appeal from that determination, that determination shall be final, provided that the period within which an appeal may be filed may be extended, for a period not to exceed an additional 15 calendar days, for good cause shown. If new evidence or pertinent facts that would alter that determination become known to the deputy prior to the date that determination becomes final, a redetermination is authorized, but that redetermination must be mailed before the original determination becomes final.
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29 If an employer's separation report for an employee is not received by the office specified thereon within 10 days after that report was requested, the claim shall be adjudicated on the basis of information at hand. If the employer's separation report containing possible disqualifying information is received after the 10-day period and the claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date of the revised decision shall not constitute an overpayment of benefits. Any benefits paid after the date of the revised decision shall constitute an overpayment.
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41 If an employer files an amended separation report or otherwise raises a new issue as to the employee's eligibility or changes the wages or weeks used in de-
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1 terminating benefits which results in a denial of benefits
2 or a reduction of the weekly benefit amount, the
3 benefits paid prior to the date the determination is
4 mailed shall not constitute an overpayment. Any benefits
5 received after that date to which the claimant
6 is not entitled pursuant to a new determination based
7 on that new employer information shall constitute an
8 overpayment.

9 If, during the period a claimant is receiving benefits,
10 new information or a new issue arises concerning
11 the claimant's eligibility for benefits or which
12 affects the claimant's weekly benefit amount, no benefits
13 may be withheld until a determination is made
14 on the issue, ~~unless authorized by the claimant~~. Before
15 a determination is made, written notice shall be
16 mailed to the claimant and other interested parties,
17 which shall include the issue to be decided, the law
18 upon which it is based, any factual allegations known
19 to the bureau, the right to a fact-finding interview,
20 the date and location of the scheduled interview, and
21 ~~the claimant's rights regarding the continuation of~~
22 ~~benefits,~~ conduct of the interview and appeal. The
23 fact-finding interview shall be scheduled not less
24 than 5 days nor more than 14 days after the notice is
25 mailed. The bureau shall include with in the notice
26 ~~a preprinted form, which the claimant may sign and~~
27 ~~return to the bureau after indicating thereon whether~~
28 ~~he wishes to continue to receive benefits until a de-~~
29 ~~termination is made, acknowledging an understanding a~~
30 statement notifying the claimant that any benefits
31 paid prior to the determination may be an overpayment
32 under applicable law and recoverable by the bureau if
33 it is later determined that the claimant was not en-
34 titled to the benefits. If the claimant does not ap-
35 pear for the scheduled interview, the deputy shall
36 make a determination on the basis of available evi-
37 dence. The deputy shall make a prompt determination
38 of the issue based solely on any written statements
39 of interested parties filed with the bureau before
40 the interview, together with the evidence presented
41 by interested parties who personally appeared at the
42 interview. Upon request and notice to all parties at
43 the interview, the deputy may accept corroborative
44 documentary evidence after the interview. In no other
45 case may the deputy base his decision on evidence
46 received after the interview has been held.

1 A. This subsection does not apply when the
2 claimant reports that, in the week claimed:

3 (1) The claimant worked and reports a spe-
4 cific amount of earnings for that work;

5 (2) The claimant worked and had earnings
6 from that work, but does not furnish the
7 amount of earnings;

8 (3) The claimant was not able or available
9 for work for a specific portion of the week
10 and there is sufficient information for the
11 deputy to determine that the inability or
12 unavailability for work was for good cause;
13 or

14 (4) The claimant received a specific amount
15 of other remuneration as described in sec-
16 tion 1193, subsection 5.

17 B. The commissioner shall notify all claimants
18 when a weekly claim is filed that they must pro-
19 vide an estimate of their earnings if they do not
20 know the actual amount and, if no estimate is
21 provided, benefits will be withheld pending re-
22 ceipt of that information. Benefits shall be
23 paid on the basis of the estimate provided until
24 actual information is available.

25 STATEMENT OF FACT

26 This new draft clarifies when fact-finding inter-
27 views will be required and increases the time period
28 within which a person who left his previous job in
29 order to accompany a spouse to a new place of resi-
30 dence must begin searching for work from 7 to 14 days
31 in order to be eligible to receive unemployment com-
32 pensation benefits.

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