

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1272

H.P. 900

House of Representatives, March 8, 2007

An Act To Repeal Certain Unemployment Benefit Disqualifications

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLARK of Millinocket.
Cosponsored by Senator STRIMLING of Cumberland and
Representatives: BURNS of Berwick, JACKSON of Allagash, PATRICK of Rumford,
TUTTLE of Sanford, Senator: SULLIVAN of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §1193, sub-§4**, as amended by PL 1997, c. 391, §1, is repealed.

3 **Sec. 2. 26 MRSA §1194, sub-§2**, as amended by PL 2003, c. 163, §1, is further
4 amended to read:

5 **2. Determination.** A representative designated by the commissioner, and in this
6 chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant
7 in each benefit year and shall determine the weekly benefit amount and maximum benefit
8 amount potentially payable to the claimant during that benefit year in accordance with
9 section 1192, subsection 5.

10 The deputy shall promptly examine all subsequent claims filed and, on the basis of facts,
11 shall determine whether or not that claim is valid with respect to sections 1192 and 1193,
12 other than section 1192, subsection 5, or shall refer that claim or any question involved in
13 the claim to the Division of Administrative Hearings or to the commission, which shall
14 make a determination with respect to the claim in accordance with the procedure
15 described in subsection 3, ~~except that in any case in which the payment or denial of~~
16 ~~benefits is subject to section 1193, subsection 4, the deputy shall promptly transmit a~~
17 ~~report with respect to that subsection to the Director of Unemployment Compensation~~
18 ~~upon the basis of which the director shall notify appropriate deputies as to the~~
19 ~~applicability of that subsection.~~

20 The deputy shall determine in accordance with section 1221, subsection 3, paragraph A,
21 the proper employer's experience rating record, if any, against which benefits of an
22 eligible individual must be charged, if and when paid.

23 The deputy shall promptly notify the claimant and any other interested party of the
24 determinations and reasons for the determinations. Subject to subsection 11, unless the
25 claimant or any such interested party, within 15 calendar days after that notification was
26 mailed to the claimant's last known address, files an appeal from that determination, that
27 determination is final, except that the period within which an appeal may be filed may be
28 extended, for a period not to exceed an additional 15 calendar days, for good cause
29 shown. If new evidence or pertinent facts that would alter that determination become
30 known to the deputy prior to the date that determination becomes final, a redetermination
31 is authorized, but that redetermination must be mailed before the original determination
32 becomes final.

33 If an employer's separation report for an employee is not received by the office specified
34 on the separation report within 10 days after that report was requested, the claim must be
35 adjudicated on the basis of information at hand. If the employer's separation report
36 containing possible disqualifying information is received after the 10-day period and the
37 claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date
38 of the revised decision do not constitute an overpayment of benefits. Any benefits paid
39 after the date of the revised decision constitute an overpayment.

40 If an employer files an amended separation report or otherwise raises a new issue as to
41 the employee's eligibility or changes the wages or weeks used in determining benefits that
42 results in a denial of benefits or a reduction of the weekly benefit amount, the benefits

1 paid prior to the date the determination is mailed do not constitute an overpayment. Any
2 benefits received after that date to which the claimant is not entitled pursuant to a new
3 determination based on that new employer information constitute an overpayment.

4 If, during the period a claimant is receiving benefits, new information or a new issue
5 arises concerning the claimant's eligibility for benefits or which affects the claimant's
6 weekly benefit amount, benefits may not be withheld until a determination is made on the
7 issue. Before a determination is made, written notice shall be mailed to the claimant and
8 other interested parties, which must include the issue to be decided, the law upon which it
9 is based, any factual allegations known to the bureau, the right to a fact-finding interview,
10 the date and location of the scheduled interview and the conduct of the interview and
11 appeal. The fact-finding interview must be scheduled not less than 5 days nor more than
12 14 days after the notice is mailed. The bureau shall include in the notice a statement
13 notifying the claimant that any benefits paid prior to the determination may be an
14 overpayment under applicable law and recoverable by the bureau if it is later determined
15 that the claimant was not entitled to the benefits. If the claimant does not appear for the
16 scheduled interview, the deputy shall make a determination on the basis of available
17 evidence. The deputy shall make a prompt determination of the issue based solely on any
18 written statements of interested parties filed with the bureau before the interview,
19 together with the evidence presented by interested parties who personally appeared at the
20 interview. Upon request and notice to all parties at the interview, the deputy may accept
21 corroborative documentary evidence after the interview. In no other case may the deputy
22 base a decision on evidence received after the interview has been held.

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

- 25 (1) The claimant worked and reports a specific amount of earnings for that work;
26 (2) The claimant worked and had earnings from that work, but does not furnish
27 the amount of earnings;
28 (3) The claimant reports that the claimant was not able or available for work for
29 a specific portion of the week and there is sufficient information for the deputy to
30 determine that the inability or unavailability for work was for good cause. If the
31 information provided by the claimant indicated unavailability during the claim
32 week, but is not specific as to the amount of time involved, the department shall
33 immediately initiate a fact-finding interview with the individual and make a
34 determination regarding the claimant's weekly benefit amount on the basis of that
35 interview. If the department is not able to conduct an immediate fact-finding
36 interview with the claimant, the notification and fact-finding process described in
37 this subsection must be followed; or
38 (4) The claimant received a specific amount of other remuneration as described
39 in section 1193, subsection 5.

40 **SUMMARY**

41 Under current law, an individual is disqualified for unemployment compensation
42 benefits if the unemployment is due to a stoppage of work that exists because of a labor
43 dispute. This bill repeals this provision of law.