

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 299

By: Senator K. Hammer
By: Representative Lundstrum

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING DISQUALIFICATION UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW; TO AMEND CERTAIN ELIGIBILITY REQUIREMENTS UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW; TO AMEND THE DEFINITION OF "WEEK OF UNEMPLOYMENT" UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING DISQUALIFICATION UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW; AND TO AMEND CERTAIN ELIGIBILITY REQUIREMENTS UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-10-507(3)(A), concerning the eligibility requirements to work under the Department of Workforce Services Law, is amended to read as follows:

(A)(i) The worker is unemployed, is physically and mentally able to perform suitable work, and is available for ~~such~~ the work. Mere registration and reporting at a local employment office shall not be conclusive evidence of ability to work, availability for work, or willingness to accept work unless the individual is doing those things which a reasonably prudent individual would be expected to do to secure work.



(ii) In determining suitable work under this section and for refusing to apply for or accept suitable work under § 11-10-515, part-time work shall be considered suitable work unless the majority of weeks of work in the period used to determine monetary ~~eligibility~~ eligibility is from full-time work.

(iii) In determining suitable work under this section or under § 11-10-515 for a worker who is on an approved medical leave from his or her last employer due to the unavailability of light-duty work, light-duty work shall be considered suitable work unless the majority of the number of weeks of work within the period used to determine monetary eligibility were weeks spent performing work that the worker is currently unable to perform due to his or her medical restrictions.

SECTION 2. Arkansas Code § 11-10-507(5)(B), concerning requalifying wages under the Department of Workforce Services Law, is amended to read as follows:

(B) Requalifying Wages. For all benefit years, an individual shall not requalify on a succeeding benefit year claim unless he or she has been paid wages for insured work equal to not less than thirty-five (35) times his or her weekly benefit amount and has wages paid for insured work in at least two (2) calendar quarters of his or her base period and, subsequent to filing the claim that established his or her previous benefit year, he or she has had insured work and was paid wages for insured work equal to ~~eight (8)~~ ten (10) times his or her weekly benefit amount.

SECTION 3. Arkansas Code § 11-10-512 is amended to read as follows:

11-10-512. Disqualification – Satisfaction.

~~(a)~~ “Week of Unemployment” ~~Defined~~. A “week of unemployment” as used in this section and ~~§§ 11-10-514, 11-10-515, 11-10-517, and § 11-10-519~~ means a week during which, except for a disqualification, an individual would be eligible for benefits.

(b) “Week of Disqualification” Defined.

(1) A “week of disqualification” ~~under §§ 11-10-514(a), 11-10-515,~~ as used in this section and 11-10-519(2) shall be satisfied by a week of unemployment as defined in this section or by a week of employment during which the employee has earnings in an amount equal to his or her weekly

benefit amount.

~~(2) However, no week may be used in satisfaction of a disqualification under § 11-10-514(a) or § 11-10-515 which is prior to the filing of his or her claim.~~

SECTION 4. Arkansas Code § 11-10-513(a)(4), concerning the continuation of the disqualification for benefits, is amended to read as follows:

(4) The disqualification shall continue until, subsequent to ~~filing a claim~~ the effective date of the disqualification, he or she has had at least thirty (30) days of employment covered by an unemployment compensation law of this state, another state, or the United States.

SECTION 5. Arkansas Code § 11-10-514(a)(5), concerning the continuation of the disqualification for benefits, is amended to read as follows:

(5) The disqualification under subsection (a) of this section shall continue until, subsequent to ~~filing a claim~~ the effective date of the disqualification, the individual has had at least thirty (30) days of employment covered by an unemployment compensation law of this state, another state, or the United States.

SECTION 6. Arkansas Code § 11-10-515(a)(1)(B), concerning the continuation of the disqualification for benefits, is amended to read as follows:

(B) The disqualification under subdivision (a)(1)(A) of this section shall continue until, subsequent to ~~filing a claim~~ the effective date of the disqualification, he or she has had at least thirty (30) days of employment covered by an unemployment compensation law of this state, another state, or the United States ~~and shall begin with the week in which the failure to apply for or accept available suitable work occurred.~~

SECTION 7. Arkansas Code § 11-10-517(1), concerning disqualification based on the receipt of other remuneration, is amended to read as follows:

(1) Separation Payments.

~~(A)(i)(a) Separation payments shall be treated as earnings~~

~~in accordance with § 11-10-503.~~

~~(b) Separation payments in excess of those covering a period of eight (8) weeks of wages and an armed services severance payment paid to a former member of the United States Armed Forces shall not be disqualifying under the terms of this section.~~

~~(ii) Separation payments provided in the form of a lump sum are disqualifying only for the week in which they are received.~~

~~(iii) Remuneration paid as back pay in settlement of a claim or grievance and supplemental unemployment benefits shall not be disqualifying.~~

~~(B)(A)~~ For initial claims made on and after January 1, 2018:

(i)(a) Separation payments are disqualifying for the number of weeks following the date of the separation that equals the number of weeks of wages received in the separation payment.

(b) An armed services severance payment paid to a former member of the United States Armed Forces shall not be disqualifying under the terms of this section.

(c) Remuneration paid as back pay in settlement of a claim or grievance and supplemental unemployment benefits shall not be disqualifying; ~~and~~

(ii)(a) The employer shall specify the total amount of separation pay and the number of weeks of wages represented by the separation pay.

(b) If the employer does not specify the number of weeks under ~~subdivision (1)(B)(ii)(a)~~ subdivision (1)(A)(ii)(a) of this section, the Department of Workforce Services shall allocate the separation pay using the claimant's average weekly wage; and

(B) For the purposes of this subdivision (1)(A), a partial week of separation pay shall be treated as a payment for a full week of separation;

SECTION 8. Arkansas Code § 11-10-519(a), concerning disqualification for benefits due to a false statement or misrepresentation of a material fact, is amended to read as follows:

(a) If so found by the Director of the Department of Workforce

Services, an individual shall be disqualified for benefits:

(1)(A) If he or she willfully makes a false statement or misrepresentation of a material fact or willfully fails to disclose a material fact in filing an initial claim or a claim renewal, he or she shall be disqualified from the ~~date of filing the claim~~ effective date of the disqualification until he or she has ~~ten (10)~~ twenty (20) weeks of employment in each of which he or she has earned wages equal to at least his or her weekly benefit amount.

(B)(i) In addition to the twenty-week disqualification in subdivision (a)(1)(A) of this section, any weekly benefits payable subsequent to the date of delivery or mailing of the determination shall be terminated.

(ii) The termination shall apply only to benefits payable within the benefit year of the claim with respect to which the claimant willfully made a false statement or misrepresentation;

(2)(A) For any continued week claimed with respect to which the employee has willfully made a false statement or misrepresentation of a material fact or willfully fails to disclose a material fact in obtaining or attempting to obtain any benefits, and for an additional thirteen (13) weeks of unemployment, as defined in § 11-10-512, and which shall commence with Sunday of the first week with respect to which a claim is filed commencing with the week of delivery or mailing of the determination of disqualification under this section.

(B)(i) In addition to the thirteen (13) weeks of disqualification, a disqualification of three (3) weeks shall be imposed for each week of failure or falsification.

(ii)(a) Any weekly benefits payable subsequent to the date of delivery or mailing of the determination shall be terminated.

(b) The termination shall apply only to benefits payable within the benefit year of the claim with respect to which the claimant willfully made a false statement or misrepresentation; and

(3)(A) The disqualification shall not be applied after ~~two and one-half (2½)~~ five (5) years have elapsed from the date of delivery or mailing of the determination of disqualification under this section, ~~but all overpayments established by the determination of disqualification shall be collected as otherwise provided by this chapter.~~

(B)(i) A person who is disqualified under this section

shall be liable for repayment of any benefits determined to have been collected fraudulently, as well as any other penalties, interest, and costs assessed as a result of the fraudulent activity.

(ii) Until the liabilities have been repaid, the person shall forfeit any right to receive benefits under this chapter.

SECTION 9. Arkansas Code § 11-10-532(a), concerning recovery of claims of benefits, is amended to read as follows:

(a)(1) If the Director of the Department of Workforce Services finds that a person knowingly has made a false statement or misrepresentation of a material fact or knowingly has failed to disclose a material fact and as a result of either action has received benefits under this chapter to which he or she was not entitled, then he or she is liable to repay the amount to the Unemployment Compensation Fund, ~~or the director may recover the amount of the overpayment by deductions from any future benefits payable to the person under this chapter.~~

(2) Once the overpayment becomes final ~~pursuant to~~ under § 11-10-527, the amount owed shall accrue interest at the rate of ten percent (10%) per annum beginning thirty (30) days after the date of the first billing statement.

(3)(A)(i) A penalty of ~~fifteen percent (15%)~~ fifty percent (50%) of the amount of the overpayment at the time the overpayment becomes final shall be assessed on all fraudulent overpayments.

(ii) An overpayment established under this subsection that is repaid within thirty (30) days of the mailing date of the determination shall be assessed a reduced penalty of fifteen percent (15%).

(B) An overpayment established under this subsection that is determined to have been as a result of benefits collected fraudulently, as well as any other penalties, interest, and costs assessed as a result of the fraudulent activity, shall be repaid before the person receives benefits under this chapter.

(C) The portion of the penalty assessed under subdivision (a)(3)(A) of this section in excess of fifteen percent (15%) of the overpayment shall be deposited into a subaccount of the Department of Workforce Services Special Fund under § 19-5-984, to be entitled "UI Integrity Fund" that shall be used exclusively for integrity related

activities arising under this chapter.

SECTION 10. Arkansas Code § 11-10-532(b)(2), concerning recovery of overpaid benefits, is amended to read as follows:

(2)(A) In lieu of requiring the repayment, the director may recover the amount by deduction of any future benefits payable to the person under this chapter unless the director finds that the overpayment was received ~~without fault on the part of the recipient~~ as a direct result of an error by the Department of Workforce Services and that its recovery would be against equity and good conscience.

(B) As used in subdivision (b)(2)(A) of this section, "direct result of an error by the Department of Workforce Services" does not include overpayments established under an appeal reversal as a result of the successful appeal of a denial of benefits.

SECTION 11. EFFECTIVE DATE. This act shall be effective on and after October 1, 2019.

APPROVED: 3/13/19