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An Act To Amend the Laws Governing Unemployment Compensation To Ensure Conformity with the Federal Trade Adjustment Assistance Extension Act of 2011

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

Sec. 1. 26 MRSA §1192, sub-§2, as amended by PL 2011, c. 645, §2, is further amended to read:

2. Has registered for work. The individual has registered for work at, and continued to report at, an employment office in accordance with rules the commission adopts, except that the commission may, by rule, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commission finds that compliance with the requirements would be oppressive, or would be inconsistent with the purposes of this chapter. A rule under this subsection may not conflict with section 1191, subsection 1.

The individual must actively seek work each week in which a claim for benefits is filed unless the individual is participating in approved training under subsection 6 or work search has been waived in accordance with rules adopted by the commission and provide evidence of work search efforts in a manner and form as prescribed by the ~~commission~~Department of Labor. Failure to provide required work search documentation results in a denial of benefits in accordance with section 1194, subsection 2 for the week or weeks for which no documentation was provided unless the ~~commission~~department determines there is good cause for the individual's failure to comply with this requirement;

Sec. 2. 26 MRSA §1193, sub-§6, as amended by PL 2011, c. 645, §9, is further amended to read:

6. Has falsified. For any week for which the deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly failed to disclose a material fact in the claimant's application to obtain benefits from any state or federal unemployment compensation program administered by the bureau. In addition, for a first or 2nd occurrence, the claimant is ineligible to receive any benefits for a period of not less than 6 months nor more than one year from the mailing date of the determination, and the commissioner shall assess a penalty of 50% of the benefits falsely obtained for the first occurrence and 75% for the 2nd occurrence. If an individual is disqualified for a 3rd occurrence of statement falsification or misrepresentation in an effort to obtain benefits, the commissioner shall assess a penalty of 100% of the benefits falsely obtained and the claimant is disqualified from receiving benefits for a period of time to be determined by the commissioner. Fifteen percent of these penalties assessed and recovered must be directly deposited in the fund account;

Sec. 3. 26 MRSA §1221, sub-§3, ¶E is enacted to read:

E. An employer's experience rating record may not be relieved of charges relating to an erroneous payment from the fund if the bureau determines that:

(1) The erroneous payment was made because the employer or agent of the employer was at fault for failing to respond timely or adequately to a written or electronic request from the bureau for information relating to the claim for unemployment compensation; and

(2) The employer or agent of the employer has established a pattern of failing to respond timely or adequately to written or electronic requests from the bureau for information relating to claims for unemployment compensation.

A determination of the bureau not to relieve charges pursuant to this paragraph is subject to appeal as other determinations of the bureau with respect to the charging of employers' experience rating records.

Sec. 4. 26 MRSA §1221, sub-§6, ¶Q is enacted to read:

Q. "Erroneous payment" means a payment that would not have been made but for the failure by the employer or agent of the employer to respond timely or adequately to a written or electronic request from the bureau for information relating to a claim for unemployment compensation.

Sec. 5. 26 MRSA §1221, sub-§6, ¶R is enacted to read:

R. "Pattern of failing" means repeated documented instances of failure on the part of the employer or agent of the employer to respond timely or adequately to a written or electronic request from the bureau for information relating to a claim for unemployment compensation, taking into consideration the number of instances of failure in relation to the total number of requests. An employer or agent of the employer that fails to respond timely or adequately to a written or electronic request from the bureau for information relating to a claim for unemployment compensation may not be determined to have engaged in a pattern of failing if the number of instances of failure during the year prior to a request is fewer than 2 or less than 2% of requests, whichever is greater.

Sec. 6. Application. That section of this Act that enacts the Maine Revised Statutes, Title 26, section 1221, subsection 3, paragraph E applies to determinations of erroneous payments made after October 21, 2013.

SUMMARY

This bill amends the laws governing unemployment compensation to ensure conformity with the federal Trade Adjustment Assistance Extension Act of 2011, Public Law 112-40, 125 Stat. 401. It provides that 15% of a penalty assessment paid due to unemployment misrepresentation or fraud must be placed directly into the Unemployment Compensation Fund. It also prohibits an employer from being relieved of benefit charges for a benefit overpayment that was due to the fault of the employer or agent of the employer if that employer or agent of the employer has established a pattern of failing to provide timely

or adequately requested information pertaining to an unemployment benefit claim. Additionally, this bill corrects reference errors in the laws governing unemployment compensation to accurately identify the Department of Labor as the entity that prescribes how and in what form an individual reports on that individual's work search, and as the entity that determines whether good cause exists for an individual's failure to comply with the work search requirement.