

§1197. Self-employment assistance program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Self-employment assistance activities" means activities approved by the commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed. "Self-employment assistance activities" must include, but are not limited to, entrepreneurial training, business counseling and technical assistance. [PL 1993, c. 710, §2 (NEW).]

B. "Self-employment assistance allowance" means an allowance payable, in lieu of regular benefits, from the Unemployment Compensation Fund to an individual who meets the requirements of this section. [PL 1993, c. 710, §2 (NEW).]

C. "Self-employment assistance program" means a program under which an individual who meets the requirements described in subsection 4 is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed. [PL 1993, c. 710, §2 (NEW).]

D. "Regular benefits" means benefits payable to an individual under this chapter, including benefits payable to federal civilian employees and to former members of the United States Armed Forces pursuant to the United States Code, Chapter 85, other than additional benefits, extended benefits and extended benefits for dislocated workers. [PL 1993, c. 710, §2 (NEW).]

[PL 1993, c. 710, §2 (NEW).]

2. Weekly amount of self-employment assistance allowance. The weekly amount of a self-employment assistance allowance payable to an individual under this section is equal to the weekly benefit amount for regular benefits otherwise payable under section 1191, subsection 2, plus any supplemental benefits for dependents payable under section 1191, subsection 6.

[PL 1993, c. 710, §2 (NEW).]

3. Maximum amount of benefits. The sum of the self-employment assistance allowances paid under this section, excluding supplemental benefits for dependents, and regular benefits paid under this chapter may not exceed the maximum amount of benefits established under section 1191, subsection 4 with respect to any benefit year.

[PL 1993, c. 710, §2 (NEW).]

4. Eligibility. The following eligibility requirements apply to the payment of a self-employment assistance allowance under this section.

A. An individual may receive a self-employment assistance allowance if that individual:

(1) Is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in paragraph B;

(2) Is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(3) Has filed an application for participation in a self-employment assistance program within 60 days of filing an initial application for regular benefits and has provided the information the commissioner may prescribe;

(4) Has, at the time the application is filed, a balance of regular benefits equal to at least 18 times the individual's weekly benefits amount and at least 18 weeks remaining in the individual's benefit year;

(5) Has been accepted into a program approved by the commissioner that will provide self-employment assistance activities;

- (6) Is participating in self-employment assistance activities;
- (7) Is actively engaged on a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed; and
- (8) Has filed a weekly claim for the self-employment assistance allowance and provided the information the commissioner prescribes, including a log of self-employment activities. [PL 1993, c. 710, §2 (NEW).]

B. A self-employment assistance allowance is payable to an individual at the same interval, on the same terms and subject to the same conditions as regular benefits except that:

- (1) The requirements of section 1192, subsection 3 relating to availability for work and active search for work are not applicable to the individual;
- (2) The requirements of section 1193, subsection 3 relating to refusal to accept work are not applicable to the individual;
- (3) The requirements of section 1191, subsection 3 and section 1043, subsection 17 relating to self-employment income are not applicable to the individual;
- (4) An individual is considered unemployed for the purposes of section 1192; and
- (5) An individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed is denied benefits for the week the failure occurs. [PL 1993, c. 710, §2 (NEW).]

[PL 1993, c. 710, §2 (NEW).]

5. Limitation on number of individuals receiving a self-employment assistance allowance.

The aggregate number of individuals receiving a self-employment assistance allowance at any time may not exceed 5% of the number of individuals receiving regular benefits at that time.

[PL 1993, c. 710, §2 (NEW).]

6. Financing costs of a self-employment assistance allowance. A self-employment assistance allowance must be charged or assessed to an employer's account in accordance with section 1221. An allowance attributable to the United States Armed Forces or civilian service must be charged to the appropriate federal account.

[PL 1993, c. 710, §2 (NEW).]

7. Effective date and termination date. This section is effective for the weeks beginning after the date of enactment or after any plan required by the United States Department of Labor is approved, whichever date is later. This section terminates as of the effective date of the withdrawal of approval of any plan required by the United States Department of Labor or as of the week containing the date when federal law no longer authorizes self-employment assistance programs.

[PL 1993, c. 710, §2 (NEW).]

8. Appeal.

[PL 1995, c. 665, Pt. DD, §2 (RP); PL 1995, c. 665, Pt. DD, §12 (AFF).]

8-A. Grievance procedure.

[PL 1997, c. 130, §1 (RP).]

8-B. Appeal of nonacceptance into a self-employment assistance program. All determinations under this section must be made in writing. A determination that an individual has not been accepted into a program approved by the commissioner that provides self-employment assistance activities may be appealed only as provided in this subsection.

A. A person who receives a determination of nonacceptance into a self-employment assistance program may obtain a review of that determination by a board appointed in accordance with rules

adopted under subsection 9. Appeals to the board must be filed, in writing, within 15 calendar days after the determination is mailed to the individual's last known address. 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. [PL 1997, c. 130, §2 (NEW).]

B. When an individual requests a review, the board shall promptly investigate and attempt to resolve the complaint informally. If the problem is not resolved to the complainant's satisfaction through this informal process, a hearing by an impartial hearing officer to review the board's decision must be scheduled and conducted in accordance with the Maine Administrative Procedure Act. [PL 1997, c. 130, §2 (NEW).]

B-1. A person aggrieved by the decision of the hearing officer may appeal to the commission by filing an appeal in accordance with rules established by the commission as long as the appealing party participated in the hearing by that hearing officer and was given notice of the effect of the failure to participate in writing prior to the hearing. [PL 2005, c. 39, §1 (NEW).]

C. A person aggrieved by the decision of the commission may appeal by commencing an action pursuant to Title 5, chapter 375, subchapter 7. The Commissioner of Labor must be made a defendant in any such appeal. [PL 2005, c. 39, §2 (AMD).]

[PL 2005, c. 39, §§1, 2 (AMD).]

9. Adopt rules. The commissioner may adopt rules in accordance with the Maine Administrative Procedure Act to implement a self-employment assistance program, including, but not limited to, criteria for approval of programs that provide self-employment assistance activities, eligibility criteria for acceptance into and participation in these programs and the review and appeal process for determinations of individual eligibility for these programs. [PL 1993, c. 710, §2 (NEW).]

10. Report. Annually by March 1st, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over labor matters on the self-employment assistance program. This report must include data on the number of individuals participating in the program and the number of businesses developed under the program, business survival data, the cost of operating the program, compliance with program requirements and data related to business income, the number of employees and wages paid in the new businesses and the incidence and duration of unemployment after business start-up. The report may also include any recommended changes in the program. [PL 1993, c. 710, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 710, §2 (NEW). PL 1995, c. 665, §§DD2,3 (AMD). PL 1995, c. 665, §DD12 (AFF). PL 1997, c. 130, §§1,2 (AMD). PL 2005, c. 39, §§1,2 (AMD).

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