

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 5
December 2018

CALIFORNIA SB 1251 ENACTED: September 14, 2018
(Chapter 418) EFFECTIVE: January 1, 2019

Nonmonetary Eligibility

Repeals sunset provision associated with the California Training Benefits Program.

Removes the prohibition on the payment of unemployment benefits when an individual receives training or retraining benefits, allowances, or stipends from other sources.

CALIFORNIA AB 2046 ENACTED: September 23, 2018
(Chapter 709) EFFECTIVE: January 1, 2019

Administration

Provides that prior to a governmental agency disclosing confidential unemployment insurance (UI) information related to any specific workers' compensation fraud investigation to any other governmental agency that is unauthorized to receive the confidential UI information the governmental agency must request approval from the Employment Development Department to share the information.

MICHIGAN HB 5165 ENACTED: December 20, 2017
(Public Act 225) EFFECTIVE: March 21, 2018

Overpayments

Adds provisions that allows an employer that is an interested party to a claim to report to the Unemployment Insurance Agency (UIA) to assert that a claim is fraudulent because of identity theft. The UIA also must include on its website a form for an affected individual to submit an affidavit to an employer or the UIA alleging identity theft. The act also provides procedures to investigate and adjudicate the allegations.

Requires the UIA to provide an annual written report to the Legislature containing certain information regarding claims submitted by impostors in the preceding calendar year.

MICHIGAN

HB 5166
(Public Act 226)

ENACTED: December 20, 2017
EFFECTIVE: July 1, 2018

Overpayments

Modifies the penalties the Unemployment Insurance Agency (UIA) can impose for fraud to provide that with certain exceptions:

- the UIA may assess a penalty equal to the amount fraudulently obtained; however, for a second or subsequent violation that occurs after the UIA sends proper notice of the original violation to the interested parties, the UIA may assess a penalty equal to one and one-half times the amount fraudulently obtained.
- if identification theft is found, the UIA must attempt to recover from the person committing the identity theft an amount equal to the amount fraudulently obtained and assess a penalty equal to four times the amount fraudulently obtained.

Requires recovered overpayments and associated penalties to be credited first to the Unemployment Compensation Fund for the amount overpaid. Additional funds collected are to be credited first to the Unemployment Compensation Fund for the required 15 percent penalty and remaining funds credited to the penalty and interest account of the Contingent Fund.

MICHIGAN

HB 5167
(Public Act 227)

ENACTED: December 20, 2017
EFFECTIVE: July 1, 2018

Administration

Allows access to the Advocacy Assistance Program in cases involving fraud, subject to available funding; however, if a final determination is made that a claimant or employer committed fraud, they are liable for amount equal to the representation fees associated with the services provided by the Advocacy Assistance Program.

MICHIGAN

HB 5168
(Public Act 228)

ENACTED: December 20, 2017
EFFECTIVE: March 21, 2018

Nonmonetary Eligibility

Requires a person applying for benefits to submit certain additional information (driver's license number or state identification card number, and the state that issued the license or ID card, *or* copies of the acceptable documents as provided in the Form I-9 that fulfills employment verification obligations under federal law, including Canadian equivalents) when establishing his or her identity.

MICHIGAN

HB 5169
(Public Act 229)

ENACTED: December 20, 2017
EFFECTIVE: July 1, 2018

Overpayments

Reallocates to the Unemployment Compensation Fund funds currently paid into the Contingent Fund from penalties collected on unpaid contributions and unpaid restitution of benefit overpayments.

Postpones interest accrual on unpaid restitution of benefit overpayments until one year after the date a determination or redetermination, an order of an administrative law judge, the Michigan Compensation Appellate Commission, or a court order is final.

Prohibits Unemployment Insurance Agency (UIA) from assessing interest on unpaid restitution of benefit overpayment for improperly paid benefits that were result of UIA administrative or clerical error. Additionally, requires payments of interest assessed as the result of an UIA administrative or clerical error must be refunded.

Provides that interest on unpaid restitution of benefit overpayment begins accruing if it is determined that a claimant made an intentional false statement on the date the determination or order is final.

MICHIGAN

HB 5171
(Public Act 231)

ENACTED: December 20, 2017
EFFECTIVE: March 21, 2018

Overpayments

Changes the definition of “contrary to equity and good conscience” as it relates to waivers of overpayment recovery to require the waiver if the claimant’s average net household income and household cash assets, exclusive of social welfare benefits, were, during the 6 months immediately preceding the date of the application of waiver, at or below 150% of the current federal poverty guidelines.

Modifies eligibility requirement for receiving a waiver of overpayment recovery when the recovery would be contrary to equity and good conscience.

Requires the Unemployment Insurance Agency to provide an annual written report to the Legislature containing certain information regarding waivers of overpayment recovery.

MICHIGAN

HB 5172
(Public Act 232)

ENACTED: December 20, 2017
EFFECTIVE: July 1, 2018

Administration

Requires a claimant, employer, or interested party to notify the Unemployment Insurance Agency (UIA) of a change in its mailing address during a benefit year.

Requires the UIA to reconsider a prior determination or redetermination after the 30-day period has expired and issue a redetermination if the prior determination or redetermination was not sent to the interested party's correct address or an address ascertained from the Department of State, Department of Treasury, or the U.S. Postal Service.

Requires requests for redetermination be filed with the UIA within one year after the date of mailing or personal service of the original determination on the disputed issue, unless the original determination involved a finding of fraud in which case requests must be filed within three years after the date of mailing or personal service of the original determination.

NEW JERSEY

A 3871
(Chapter 112)

ENACTED: August 24, 2018
EFFECTIVE: August 24, 2018

Nonmonetary Eligibility

Decrease the period of disqualification from seven weeks to five weeks when an individual is suspended or discharged for misconduct connected with the work.

Amends the definition of misconduct to be "conduct which is improper, intentional, connected with the individual's work, within the individual's control, not a good faith error of judgment or discretion, and is either a deliberate refusal, without good cause, to comply with the employer's lawful and reasonable rules made known to the employee or a deliberate disregard of standards of behavior the employer has a reasonable right to expect, including reasonable safety standards for a workplace free of drug and substance abuse."

Places the burden of proof to sustain a disqualification for misconduct or gross misconduct on the employer, and requires the employer to provide written documentation to the Department of Labor & Workforce Development demonstrating that the employee's actions constitute misconduct or gross misconduct prior to any determination being issued.

OHIO 4141-28-02, -03, -04, -06, -07, -08 ADOPTED: July 2, 2018
EFFECTIVE: July 30, 2018

Administration

Amends the existing rule related to scheduling labor dispute hearings, rights of parties, and hearing procedures.

UTAH R994-405 ADOPTED: July 15, 2018
EFFECTIVE: June 21, 2018

Administration

Clarifies the regulation related to whether an employee of an educational institution has a reasonable assurance of returning to work for purposes of determining the employee's eligibility for unemployment insurance benefits.

VIRGINIA HB 1552 ENACTED: March 30, 2018
(Chapter 710) EFFECTIVE: July 1, 2018

Administration

Requires the Virginia Board of Workforce Development create a data driven strategy to target underserved populations of discouraged and/or unemployed individuals for services provided under the Workforce Innovation and Opportunity Act.