

§1192-A. Eligibility conditions

The following provisions govern an individual's eligibility to receive benefits under this chapter. [PL 2025, c. 235, §11 (NEW).]

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

A. "Deputy" means a representative of the bureau designated by the commissioner. [PL 2025, c. 235, §11 (NEW).]

B. "Educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing services to one or more educational institutions. [PL 2025, c. 235, §11 (NEW).]

C. "Good cause" means:

- (1) The unemployed individual is ill;
- (2) The presence of the unemployed individual is required due to an illness of the unemployed individual's spouse, child, parent, stepparent, sibling or relative who has been acting in the capacity of a parent of either the unemployed individual or the unemployed individual's spouse;
- (3) The unemployed individual is in attendance at the funeral of any of the persons described in subparagraph (2);
- (4) The unemployed individual is observing a religious holiday as required by religious conviction;
- (5) The unemployed individual is performing either a military or civil duty as required by law; and
- (6) Another cause of a necessitous and compelling nature, including child care emergencies and transportation emergencies.

"Good cause" does not include incarceration as a result of a conviction for a felony or misdemeanor. [PL 2025, c. 235, §11 (NEW).]

D. "Suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the United States Trade Act of 1974, and wages for that work at not less than 80% of the individual's average weekly wage as determined for the purposes of the United States Trade Act of 1974. [PL 2025, c. 235, §11 (NEW).]

E. "Union hiring hall" means a service provided by a labor union or an entity associated with a labor union that places employees with an employer under a collective bargaining agreement or otherwise places employees with employers. [PL 2025, c. 235, §11 (NEW).]

[PL 2025, c. 235, §11 (NEW).]

2. Eligibility. An unemployed individual is eligible to receive benefits with respect to any week only if:

A. The individual has made a claim for benefits with respect to the week or part thereof in accordance with rules adopted by the commissioner; [PL 2025, c. 235, §11 (NEW).]

B. The individual has registered for work at and continued to report at an employment office in accordance with rules the commissioner adopts, except that the commissioner may, by rule, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the

purposes of this chapter. A rule under this paragraph may not conflict with section 1191, subsection 1; [PL 2025, c. 235, §11 (NEW).]

C. For each week in which a claim for benefits is filed, the individual is actively seeking work, unless the individual is participating in approved training under subsection 3 or the work search requirement has been waived in accordance with rules adopted by the commissioner, and the individual provides evidence of work search efforts in a manner and form as prescribed by the 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 documentation was not provided unless the department determines there is good cause for the individual's failure to comply with this requirement.

Notwithstanding any provision of this paragraph to the contrary, an individual is considered to be actively seeking work in accordance with this section if the individual is a member of, or represented by, a bona fide labor union, or is otherwise authorized to use the services of a bona fide union hiring hall, maintains contact with that union and uses and complies with the placement services of the union hiring hall in seeking work; [PL 2025, c. 235, §11 (NEW).]

D. The individual is able to work and is available for work at the individual's usual or customary hours, commute, trade, occupation, profession or business or in such other trade, occupation, profession or business for which the individual's prior training or experience shows the individual to be fitted or qualified, and in addition to having complied with paragraphs B and C is actively seeking work in accordance with the rules of the commissioner.

Ineligibility may not be determined solely because an individual is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment because of parental obligation, the need to care for an immediate family member or the unavailability of a personal care attendant required to assist the unemployed individual who is a person with a disability. An unemployed individual who is neither able nor available for work due to good cause as determined by the deputy is eligible to receive prorated benefits for that portion of the week during which the individual was able and is available.

Notwithstanding this paragraph, an individual who worked full-time for the majority of the weeks during that individual's base period but is able and available for and actively seeking only part-time work because of the illness or disability of the individual or an immediate family member, or because of limitations necessary for the safety or protection of the individual or the individual's immediate family member, may not be disqualified from receiving benefits. The individual's benefits must be prorated in accordance with the individual's current availability; [PL 2025, c. 235, §11 (NEW).]

E. The individual has served a waiting period of one week of total or partial unemployment. A week may not be counted as a week of total or partial unemployment for the purpose of this paragraph:

- (1) If benefits have been paid with respect to that week;
- (2) Unless it occurs within the benefit year that includes the week with respect to which the individual claims payment of benefits; and
- (3) Unless the individual was eligible for benefits with respect to that week, as provided in this section and section 1193, except for the requirements of this paragraph; and [PL 2025, c. 235, §11 (NEW).]

F. For an individual establishing a benefit year on or after January 1, 1980, the individual has been paid wages equal to or exceeding 2 times the annual average weekly wage for insured work in each of 2 different quarters in the individual's base period and has been paid total wages equal to or exceeding 6 times the annual average weekly wage in the individual's base period for insured work.

For the purposes of this paragraph, the annual average weekly wage amount to be used is that which is applicable at the time the individual files a request for determination of insured status.

For the purposes of this paragraph, wages are counted as "wages for insured work" for benefit purposes with respect to a benefit year only if the benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 1043, subsection 9, or section 1222, subsection 3, with respect to becoming an employer; except that an individual may not receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which that individual received benefits, that individual performed services and earned remuneration for such services in an amount equal to or greater than 8 times that individual's weekly benefit amount in employment by an employer in the benefit year being established.

This paragraph applies only to an individual requesting determination of insured status on and after January 1, 1972. In determining an individual's qualification under this subsection, payments pursuant to former Title 39, sections 54, 55, 188 and 189 and Title 39-A, sections 608 and 609 are considered wages for insured work. [PL 2025, c. 235, §11 (NEW).]

[PL 2025, c. 235, §11 (NEW).]

3. Approved training. Notwithstanding any provision of this chapter to the contrary, an otherwise eligible individual who is in training, as approved for the individual by the deputy, under rules adopted by the commissioner, may not be denied benefits for any week with respect to subsection 2, paragraphs C and D relating to availability and the work search requirement or section 1193, subsection 3. Enrollment in a degree-granting program may not be the sole cause for denial of approved training status for an otherwise eligible individual. Benefits paid to any eligible individual while in approved training for which except for this subsection the individual could be disqualified under section 1193, subsection 3 may not be charged against the experience rating record of an employer but must be charged to the General Fund.

Notwithstanding any provision of this chapter to the contrary, the following provisions further govern an individual's eligibility for benefits with respect to training:

A. Any otherwise eligible individual may not be denied benefits for any week because the individual is in training approved under 19 United States Code, Section 2296(a) or under any amendment or addition to the United States Trade Act of 1974. That individual may not be denied benefits:

(1) For leaving work to enter that training, as long as the work left is not suitable employment; or

(2) Because of the application to any such week in training of provisions in this chapter or any applicable federal unemployment compensation law relating to availability for work, active search for work or refusal to accept work.

Benefits paid to an eligible individual while in training for which, except for this paragraph, the individual could be disqualified under section 1193, subsection 1 or 3 may not be charged against the experience rating record of an employer but must be charged to the General Fund; [PL 2025, c. 235, §11 (NEW).]

B. The acceptance of training for opportunities available through United States Public Law 97-300 is considered to be acceptance of training with the approval of the State within the meaning of any other provisions of federal or state law relating to unemployment benefits; [PL 2025, c. 235, §11 (NEW).]

C. The acceptance of training for opportunities available under section 2031 and 2033 is considered to be acceptance of training with state approval under federal or state law relating to unemployment benefits; and [PL 2025, c. 235, §11 (NEW).]

D. Unless inconsistent with federal law, the acceptance of training opportunities available through the federal Workforce Innovation and Opportunity Act, 29 United States Code, Sections 3101 to 3361 is considered to be acceptance of training with the approval of the State within the meaning of any other provision of federal or state law relating to unemployment benefits as long as the training is in accordance with rules the commissioner adopts. [PL 2025, c. 235, §11 (NEW).]
[PL 2025, c. 235, §11 (NEW).]

4. Service with nonprofit organizations and educational institutions and state and local governments. Benefits based on service in employment, as defined in section 1043, subsection 11, paragraph A-1, subparagraphs (1) and (3), are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other services subject to this chapter, except that:

A. With respect to weeks of unemployment beginning after December 31, 1977, for services in an instructional, research or principal administrative capacity for an educational institution, if there is a contract or annual written reasonable assurance that the individual will perform services in such a capacity for the educational institution in a 2nd academic year or term, benefits may not be paid to an individual based on those services for any week of unemployment:

- (1) Commencing during the period between 2 successive academic years or terms;
- (2) During a period, similar to the period described in subparagraph (1), between 2 regular, but not successive, terms when provided for by an agreement; or
- (3) During a period of paid sabbatical leave provided for in an individual's contract, if that individual performs services in a first academic year or term; [RR 2025, c. 1, Pt. A, §36 (COR).]

B. With respect to weeks of unemployment beginning after September 3, 1982, for services for an educational institution in any capacity other than an instructional, research or principal administrative capacity, benefits may not be paid on the basis of those services to an individual for any week that commences during a period between 2 successive academic years or terms if the individual performs those services in the first of those academic years or terms and there is annual written reasonable assurance that the individual will perform the services in the 2nd of those academic years or terms; except that if benefits are denied to an individual under this paragraph and the individual was not offered an opportunity to perform the services for the educational institution for the 2nd of those academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; [PL 2025, c. 235, §11 (NEW).]

C. With respect to weeks of unemployment beginning after December 31, 1977, benefits must be denied to an individual for any week that commences during an established and customary vacation period or holiday recess if:

- (1) That individual performs a service described in paragraph A or B in the period immediately before the vacation period or holiday recess; and
- (2) There is annual written reasonable assurance that the individual will perform those services in the period immediately following the vacation period or holiday recess; and [PL 2025, c. 235, §11 (NEW).]

D. With respect to weeks of unemployment beginning after June 30, 1979, benefits must be denied to an individual who performed services in an educational institution while in the employ of an educational service agency for any week that commences during a period described in paragraph A, B or C if:

(1) That individual performs a service described in paragraph A or B in the first of these periods, as specified in the applicable paragraph; and

(2) There is a contract or a written reasonable assurance as set out in the applicable paragraph that the individual will perform these services in the 2nd of those periods, as set out in the applicable paragraph. [PL 2025, c. 235, §11 (NEW).]

[RR 2025, c. 1, Pt. A, §36 (COR).]

5. Claims in another state or contiguous country; individual residence; no denial or reduction of benefits. Benefits may not be denied or reduced to an individual solely because the individual files a claim in another state or a contiguous country with which the United States has an agreement with respect to unemployment compensation or because the individual resides in another state or contiguous country at the time the individual files a claim for benefits in this State.

[PL 2025, c. 235, §11 (NEW).]

6. No denial of benefits for jury service. Benefits may not be denied to an individual solely because the individual is selected to serve as a juror. An individual who receives actual earnings for jury service must be paid a partial benefit in an amount equal to the individual's weekly benefit amount less the amount earned for jury service.

[PL 2025, c. 235, §11 (NEW).]

7. Benefit payments to athletes. Benefits may not be paid to an individual on the basis of any service, substantially all of which consists of participating in sports or athletic events or training or preparing to participate, for any week that commences during the period between 2 successive sports seasons or similar periods, if that individual performed those services in the first of those seasons or similar periods and there is a written reasonable assurance that the individual will perform those services in the 2nd of those seasons or similar periods.

[PL 2025, c. 235, §11 (NEW).]

8. Benefit payments to aliens not lawfully present. On and after January 1, 1978, benefits are not payable on the basis of services performed by an alien unless the alien is an individual who:

A. Was lawfully admitted for permanent residence in the State at the time the services were performed; [PL 2025, c. 235, §11 (NEW).]

B. Was lawfully present for purposes of performing the services; or [PL 2025, c. 235, §11 (NEW).]

C. Was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as a result of temporary parole pursuant to the Immigration and Nationality Act, 8 United States Code, Section 1182(d)(5).

[PL 2025, c. 235, §11 (NEW).]

Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status must be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, a determination that benefits to the individual are not payable because of the individual's alien status may not be made except upon a preponderance of the evidence.

[PL 2025, c. 235, §11 (NEW).]

9. Participation in reemployment services. An individual who has been referred to reemployment services pursuant to a profiling system established by the commissioner must participate in those services or similar services unless it is determined that the individual has completed those services or there is good cause for the individual's failure to participate.

[PL 2025, c. 235, §11 (NEW).]

10. Reemployment services and eligibility assessment; participation. In the case that an individual has been referred to reemployment services and eligibility assessment by the Department of Labor, the individual must participate in those services, unless the department determines there is good cause for the individual's failure to participate. Failure to participate in reemployment services and eligibility assessment without good cause results in a denial of benefits until the individual participates. [PL 2025, c. 235, §11 (NEW).]

11. Temporary layoff; work search. Notwithstanding any provision of this chapter to the contrary, an otherwise eligible individual who is temporarily laid off by an employer that has given that individual a definite recall date may not be denied benefits for any week that is within 6 weeks of the definite recall date based on the individual's failure to meet the requirements of subsection 1, paragraph B, C or D for the period of up to 6 weeks during that temporary layoff, as long as the individual remains able and available to work for that employer.

An individual may not receive more than 6 weeks of benefits in a benefit year pursuant to this subsection unless approved by the Department of Labor.

[PL 2025, c. 235, §11 (NEW).]

SECTION HISTORY

PL 2025, c. 235, §11 (NEW). RR 2025, c. 1, Pt. A, §36 (COR).

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