

§2154. Employment information

1. Employment information; definition. An employer doing business in this State shall report to the department the hiring of a newly hired employee. For the purposes of this section, "newly hired employee" means a person who resides or works in this State to whom the employer anticipates paying earnings and who:

A. [PL 2013, c. 279, §1 (RP).]

B. [PL 2013, c. 279, §1 (RP).]

C. Was previously employed by the employer but who has been separated from that prior employment for at least 60 consecutive days; or [PL 2013, c. 279, §1 (NEW).]

D. Has not previously been employed by the employer. [PL 2013, c. 279, §1 (NEW).]
[PL 2013, c. 279, §1 (AMD).]

2. Exceptions.

[PL 1997, c. 669, §3 (RP).]

3. W-4 form. An employer required to report under subsection 1 may report by mailing the employee's copy of the W-4 form, transmitting a facsimile of the W-4 form, sending magnetic tape in a compatible format or by other means, as mutually agreed to by the employer and the department, that will result in timely reporting.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

4. Report. An employer shall submit a report within 7 days of the date that services for remuneration are first performed by a newly hired employee. The report must contain:

A. The employee's name, address, social security number, date of birth and the most recent date that services for remuneration were first performed by the employee; and [PL 2013, c. 279, §2 (AMD).]

B. The employer's name, address and employment security reference number or unified business identifier number. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
[PL 2013, c. 279, §2 (AMD).]

4-A. Independent contractors.

[PL 2009, c. 198, §1 (RP).]

4-B. Independent contractors. An employer who reports under subsection 1 shall also report the contracting for services in this State with an independent contractor when reimbursement for such services is anticipated to equal or exceed \$2,500.

A. An employer required to report under this subsection may report by mailing a copy of the employer's federal Internal Revenue Service 1099-MISC form, transmitting a facsimile of the 1099-MISC form, sending magnetic tape in a compatible format or by other means, as mutually agreed to by the employer and the department, that will result in timely reporting. [PL 2009, c. 198, §2 (NEW).]

B. The employer shall report the information in this paragraph within 7 days of the earlier of first making payments that in the aggregate equal or exceed \$2,500 in any year to an independent contractor and entering into a contract or contracts with an independent contractor providing for payments that in the aggregate equal or exceed \$2,500 in any year:

- (1) The independent contractor's name, address and social security number;
- (2) The employer's name, business name, address and telephone number;

(3) The employer's social security number, employment security reference number or unified business identifier number;

(4) The date the contract is executed or, if no contract, the date payments in the aggregate first equal or exceed \$2,500; and

(5) The total dollar amount of the contract, if any, and the contract expiration date. [PL 2009, c. 198, §2 (NEW).]

[PL 2009, c. 198, §2 (NEW).]

5. Retention of records.

[PL 1997, c. 537, §38 (RP); PL 1997, c. 537, §62 (AFF).]

6. Penalties. An employer who knowingly fails to report as required under this section must be given a written warning by the department for the first violation and is subject to a civil penalty of up to \$200 per month for each subsequent violation after the warning has been given. All violations within a single month are considered a single violation for purposes of assessing the penalty.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

7. Transmissions to the National Directory of New Hires. Within 3 business days after the date information regarding a newly hired or rehired employee or independent contractor is entered into the department's computer system, the department shall transmit the information to the National Directory of New Hires maintained by the federal Department of Health and Human Services. After obtaining the information from the Department of Labor, the department shall send the National Directory of New Hires quarterly reports of wages and unemployment compensation benefits paid to persons who are reported to the department under this section as specified by federal regulations.

[PL 2009, c. 198, §3 (AMD).]

8. Use of new hire information. The department shall use the information it receives under this section to locate persons and identify sources of income for purposes of:

A. Establishing, enforcing and modifying child support obligations; [PL 1997, c. 537, §39 (NEW); PL 1997, c. 537, §62 (AFF).]

B. Collecting overpayments of public assistance and overissue of food stamps when benefits are no longer being paid; and [PL 1997, c. 537, §39 (NEW); PL 1997, c. 537, §62 (AFF).]

C. Determining eligibility and enforcing eligibility rules for cash assistance, food stamps, Medicaid and other benefit programs funded or administered by the department. [PL 1997, c. 537, §39 (NEW); PL 1997, c. 537, §62 (AFF).]

[PL 1997, c. 537, §39 (NEW); PL 1997, c. 537, §62 (AFF).]

9. Access to information. The Department of Labor, the Workers' Compensation Board and the State Tax Assessor may have access to the information reported to the department for purposes of program administration.

[PL 1997, c. 537, §39 (NEW); PL 1997, c. 537, §62 (AFF).]

10. Independent contractor. For purposes of this section, "independent contractor" means an individual who is not an employee of the employer and who receives compensation or executes a contract for services performed for that employer within or without this State. "Independent contractor" does not include a direct seller as defined in 26 United States Code, Section 3508(b)(2).

[PL 2009, c. 198, §4 (NEW).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 537, §§38,39 (AMD). PL 1997, c. 537, §62 (AFF). PL 1997, c. 669, §§2,3 (AMD). PL 2003, c. 224, §1 (AMD). PL 2009, c. 198, §§1-4 (AMD). PL 2013, c. 279, §§1, 2 (AMD).

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