

**CHAPTER 120**  
**(CORRECTED COPY)**

AN ACT concerning the timely payment of unemployment compensation benefits and amending R.S.43:21-6 and R.S.43:21-16.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. R.S.43:21-6 is amended to read as follows:

Claims for benefits.

43:21-6. (a) Filing. (1) Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions. The benefit instructions given to the individual shall include, but not be limited to, the following information: (A) the date upon which the individual becomes unemployed, and, in the case that the unemployment is temporary, to the extent possible, the date upon which the individual is expected to be recalled to work; and (B) that the individual may lose some or all of the benefits to which he is entitled if he fails to file a claim in a timely manner. Both the aforesaid notices and instructions, including information detailing the time sensitivity of filing a claim, and directions provided in advance to all employers regarding what information the division requires employers to provide to the division by electronic means immediately upon a separation from employment sufficient to enable the division to make a benefit determination, including any information relevant to whether the individual may be disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-5, shall be supplied by the division to employers without cost to them. The directions provided to all employers in advance shall include that each employer provide the division with an email address for communications to and from the division. When an employer provides benefit instructions to the individual which disclose the date on which unemployment will commence, the employer shall immediately and simultaneously provide by electronic means that disclosure to the division together with the information required by the division pursuant to the directions provided in advance by the division. An employer who fails to make the immediate and simultaneous disclosure to the department as required by this paragraph shall be liable for the penalties imposed by subsection (b) of R.S.43:21-16 on employers for willful failure to furnish reports. The division shall notify the employer by electronic means not more than seven calendar days after the department receives the disclosure of any failure of the employer to provide all of the information needed by the division to make a benefit determination. Nothing in this section shall be construed so as to require an employer to re-hire an individual formerly in the employer's service. Nothing in this section shall be construed as requiring the division to issue a benefit determination solely based on the information supplied by the employer. Notwithstanding the provisions of this section which require employers to provide information to the division by electronic means, and the division to provide notifications to an employer by electronic means, the commissioner shall have the discretion to establish by rule an alternate method or methods for employers to provide the required information to the division and for the division to provide the required notifications to an employer in circumstances where it is established, to the satisfaction of the commissioner, that the employer is unable to provide the

information to the division or is unable to receive notifications from the division by electronic means.

(2) Any claimant may choose to certify, cancel or close his claim for unemployment insurance benefits at any time, 24 hours a day and seven days a week, via the Internet on a website developed by the division; however, any claim that is certified, cancelled or closed after 7:00 PM will not be processed by the division until the next scheduled posting date.

(3) The division may request that claimants obtain digital identity credentials, but only if the division provides opportunities for claimants to verify their identities even if they do not have the knowledge or access to the equipment needed to obtain the digital identity credentials. Any request by the division for a claimant to obtain digital identity credentials shall include a statement that the claimant may use alternative procedures to verify identification, and fully describe the alternative procedures, which shall include personal assistance in person or by phone which shall be made available by representatives of the division as needed to prevent any delay in processing claims. If the division requests that a claimant obtain digital identity credentials, and the claimant chooses to request a digital identity credential rather than utilize an alternative procedure, but is denied the digital identity credential, the division shall issue the claimant a written appealable determination.

(4) Any system that the division establishes for claimants or recipients of benefits to verify identity, to apply for, or to make appeals regarding, benefits either by phone or on-line, shall provide a clearly and prominently expressed option for the claimant or recipient, if not immediately provided personal assistance, to select from available appointment times an appointment time to speak with a representative to obtain assistance in verifying identity, filing a claim or appeal, or obtaining information regarding the status of a claim or appeal.

(b) (1) Procedure for making initial determinations with respect to benefit years commencing on or after January 1, 1953.

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine any disclosure of information to the division by an employer required by paragraph (1) of subsection (a) of this section upon a separation from work and any claim for benefits, and shall, by electronic means, notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. The notification shall be made not later than seven calendar days after the employer provides to the department the disclosure required by paragraph (1) of subsection (a) of this section, or seven calendar days after the filing of the claim, whichever occurs first, and require said employing unit and employer to furnish, by electronic means, not more than seven calendar days after the notification is made, any information to the deputy which the employer failed to provide as required by paragraph (1) of subsection (a) of this section as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question. The claimant shall, at the time the claim is filed, be provided any information the division has received from the employer upon the separation from work and an opportunity to respond to that information. If a claim is filed and the employer has provided the information required upon separation from work, the employer shall immediately be notified by electronic means of the opportunity to provide, by electronic means and in not more than seven calendar days, additional information in response to the claim for benefits. If a claim is filed and the employer has failed to provide the information required upon the separation from work, the division shall immediately, by electronic means, request the required information and the employer shall provide the information, by electronic means and in not more than seven calendar days. The division shall provide the claimant any additional information it receives and an opportunity to respond.

If any employer or employing unit fails to respond to the notification or request within seven calendar days after a communication by electronic means of the notification or request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of a knowing, fraudulent nondisclosure or misrepresentation by the claimant or his agent, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall make an initial determination contingent upon the receipt of all necessary information and notify the claimant no later than three weeks from the date on which the division received the claim for benefits. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to the employer to whom the determination relates, and the ratio of benefits chargeable to the employer's account for benefit years commencing on or after July 1, 1986, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to provide information as required at the time of separation from employment, and failed to respond to the deputy's request for additional information, benefit payments based on the determination shall commence immediately, and such initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's reply and the determination of the division to alter the initial determination after providing the claimant the information and an opportunity to respond shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of employment with each such employer. If an appeal is taken from an initial determination, as hereinafter provided, by any employer other than the first chargeable base year employer or for benefit years commencing on or after July 1, 1986, that employer from whom the individual was most recently separated, then such appeal shall be limited in scope to include only one or more of the following matters:

- (A) The correctness of the benefit payments authorized to be made under the determination;
- (B) Fraud in connection with the claim pursuant to which the initial determination is issued;
- (C) The refusal of suitable work offered by the chargeable employer filing the appeal;
- (D) Gross misconduct as provided in subsection (b) of R.S.43:21-5.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsection (f) of R.S.43:21-4 and subsection (d) of R.S.43:21-5.

The amount of benefits payable under an initial determination may be reduced or canceled if necessary to avoid payment of benefits for a number of weeks in excess of the maximum specified in subsection (d) of R.S.43:21-3.

Unless the employer, within seven calendar days after a confirmed receipt of notification of an initial determination, including by electronic means, or the claimant, within 21 calendar days after the notification was mailed to the claimant's last-known address and addresses, files

an appeal of the decision, the decision shall be final and benefits shall immediately be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. An appeal concerning an initial determination shall not be filed after whichever is applicable of the seven-day or 21-day period. Benefits payable for periods pending an appeal shall be paid as such benefits accrue and be paid according to the initial determination but shall be, to the extent that the amount paid exceeds the amount determined in the appeal, regarded as an overpayment subject to the provisions of R.S.43:21-16 regarding overpayments, including the requirement of that section that a claimant who makes knowing, fraudulent nondisclosure or misrepresentation is liable to repay the full amount of the overpayment; provided that if the appeal is an appeal of a determination that the claimant is disqualified under the provisions of R.S.43:21-5, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in that section, and while the appeal is pending, the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; provided further that if it is determined in the appeal that the claimant was not disqualified, the claimant shall be paid the benefits due for the period of the disqualification, except that no such benefits shall be paid to the claimant for any week during which the claimant has failed to provide to the division a weekly certification evidencing the claimant's eligibility for benefits; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid, if the decision is finally reversed. If an employer appeals the charging of benefits to the employer's account after the seven-day period to appeal the initial benefit determination, and, as a result of the appeal on the charging to the employer's account, the division, after the claimant is notified and given the opportunity to respond, reduces the amount charged to the employer's account, any resulting reduction in the amount of benefits shall take effect only after the resolution of the appeal of the charging, and any amount of benefits paid before the resolution of the appeal of the charging which exceeds the amount determined in that appeal shall be regarded as an overpayment caused by employer error and shall be charged to the employer's account, and the claimant shall not be liable to repay any portion of that overpayment where the overpayment is of regular Unemployment Compensation. In the case of the recovery of an overpayment of benefit under any of the following programs authorized by the federal "Coronavirus Aid, Relief, and Economic Security (CARES) Act," Pub.L.116-136: Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Mixed Earners Unemployment Compensation (MEUC), Pandemic Unemployment Assistance (PUA), or the first week of regular Unemployment Compensation that is reimbursed in accordance with Section 2105 of the CARES Act, a recovery shall not be waived unless the division determines that the claimant is without fault and the repayment would be contrary to equity and good conscience.

(2) (Deleted by amendment, P.L.2022, c.120)

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year, in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. Any change in the allowance, amount, or other characteristic of benefits by the deputy in any such determination, or the denial of benefits by the deputy in any such determination, shall be appealable in the same manner and under the same limitations as is

provided in the case of initial determinations, except that, after an initial determination, the resolution of any appeal of the initial determination, and the payment of one or more weeks of benefits pursuant to the initial determination, if a subsequent determination will result in any termination or reduction of those benefits from the amount or duration of benefits specified in the initial determination, the claimant shall be provided notification with a full written explanation of why the reduction or termination of benefits will occur, and provided, during the seven calendar days following the notification, an opportunity to file an appeal before the reduction or termination goes into effect. If the claimant files an appeal during the seven-day period, benefits shall continue to be paid at the rate, and for the duration, stipulated in the initial determination until the appeal is resolved. If the claimant does not file an appeal, or the claimant files an appeal and it is found in the resolution of the appeal that the amount in benefits paid during the processing of the appeal exceeded the amount determined in the appeal to be correct, or the claimant is found in the appeal to be ineligible for benefits, any resulting excess payment of benefits shall be regarded as an overpayment subject to the provisions of R.S.43:21-16 regarding overpayments, including the requirement of that section that a claimant who makes knowing, fraudulent nondisclosure or misrepresentation is liable to repay the full amount of the overpayment.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and the determination. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless further appeal is initiated pursuant to subsection (e) of this section within 20 days after the date of notification or mailing of such decision for any decision made after December 1, 2010.

(d) Appeal tribunals. To hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under subsection (d) of R.S.43:21-16, the director with the approval of the Commissioner of Labor and Workforce Development shall establish impartial appeal tribunals consisting of a salaried body of examiners under the supervision of a Chief Appeals Examiner, all of whom shall be appointed pursuant to the provisions of Title 11A of the New Jersey Statutes, Civil Service and other applicable statutes.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceedings so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed benefit claims, and appeals from determinations with respect to (1) claims for benefits and (2) demands for refunds of benefits under subsection (d) of R.S.43:21-16 shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical

rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter (R.S.43:21-1 et seq.).

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to such party and to the party's attorney, or upon the mailing of a copy thereof to such party at his last-known address and to the party's attorney. The Division of Unemployment and Temporary Disability Insurance and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney, who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney General.

(i) Failure to give notice. The failure of any public officer or employee at any time heretofore or hereafter to give notice of determination or decision required in subsections (b), (c) and (e) of this section, as originally passed or amended, shall not relieve any employer's account of any charge by reason of any benefits paid, unless and until that employer can show to the satisfaction of the director of the division that the said benefits, in whole or in part, would not have been charged or chargeable to his account had such notice been given. Any determination hereunder by the director shall be subject to court review.

(j) With respect to benefit payments made on or after October 22, 2013, an employer's account shall not be relieved of charges related to a benefit payment that was made erroneously from the division if it is determined that:

(1) The erroneous benefit payment was made because the employer, or an agent of the employer, failed to respond in a timely or adequate manner to a request from the division for information related to the claim for benefits, including failing to provide the information required by subsection (a) of this section upon a separation from employment; and

(2) The employer, or an agent of the employer, has established a pattern of failing to respond in a timely or adequate manner to requests from the division for information related to claims for benefits, including failing to provide the information required by subsection (a) of this section upon a separation from employment.

Determinations of the division prohibiting the relief of charges pursuant to this subsection shall be subject to appeal in the same manner as other determinations of the division related to the charging of employer accounts.

For purposes of subsection (j) of this section:

"Erroneous benefit payment" means a benefit payment that, except for the failure by the employer, or an agent of the employer, to respond in a timely or adequate manner to a request from the division for information with respect to the claim for benefits, would not have been made; and

"Pattern of failing" means repeated documented failure on the part of the employer, or an agent of the employer, to respond to requests from the division to the employer or employer's agent for information related to a claim for benefits, including failing to provide the information required by subsection (a) of this section upon a separation from employment, except that an employer, or an agent of an employer, shall not be determined to have engaged in a "pattern of failing" if the number of failures to provide the required information or respond

to requests from the division for information related to claims for benefits during the previous 365 calendar days is less than three, or if the number of failures is less than two percent of the number of requests from the division, whichever is greater.

(k) The Department of Labor and Workforce Development shall establish and maintain a procedure by which personnel access rights to the department's primary system for unemployment claims receipt and processing are comprehensively reviewed every calendar quarter. The procedure shall include an evaluation of access needs to the primary unemployment claims receipt and processing system for all department personnel and the adjustment, addition, or deletion of access rights for department personnel based on the quarterly review.

2. R.S.43:21-16 is amended to read as follows:

Unemployment compensation offenses and penalties.

43:21-16. (a) (1) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase or attempts to obtain or increase any benefit or other payment under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, either for himself or for any other person, shall be liable to a fine of 25% of the amount fraudulently obtained, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered shall be immediately deposited in the following manner: 10 percent of the amount fraudulently obtained deposited into the unemployment compensation auxiliary fund for the use of said fund, and 15 percent of the amount fraudulently obtained deposited into the unemployment compensation fund; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) For purposes of any unemployment compensation program of the United States, if the department determines that any benefit amount is obtained by an individual due to fraud committed by the individual, the department shall assess a fine on the individual and deposit the recovered fine in the same manner as provided in paragraph (1) of subsection (a) of this section. As used in this paragraph, "unemployment compensation program of the United States" means:

(A) Unemployment compensation for federal civilian employees pursuant to 5 U.S.C. 8501 et seq.;

(B) Unemployment compensation for ex-service members pursuant to 5 U.S.C. 8521 et seq.;

(C) Trade readjustment allowances pursuant to 19 U.S.C. 2291-2294;

(D) Disaster unemployment assistance pursuant to 42 U.S.C. 5177(a);

(E) Any federal temporary extension of unemployment compensation;

(F) Any federal program that increases the weekly amount of unemployment compensation payable to individuals; and

(G) Any other federal program providing for the payment of unemployment compensation.

(b) (1) An employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto or to avoid becoming or remaining subject hereto or to avoid or reduce any

contribution or other payment required from an employing unit under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, or who willfully fails or refuses to furnish any reports or information required hereunder, including failing to provide the information required by subsection (a) of R.S.43:21-6 immediately upon a separation from employment, or to produce or permit the inspection or copying of records, as required hereunder, shall be liable to a fine of \$500, or 25% of any amount fraudulently withheld, whichever is greater, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense. Any penalties imposed by this paragraph shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) (Deleted by amendment, P.L.2022, c.120).

(3) Any employing unit, officer or agent of the employing unit, or any other person, determined by the controller to have knowingly violated, or attempted to violate, or advised another person to violate the transfer of employment experience provisions found at R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain a lower rate of contributions by failing to disclose material information, or by making a false statement, or by a misrepresentation of fact, shall be subject to a fine of \$5,000 or 25% of the contributions under-reported or attempted to be under-reported, whichever is greater, to be recovered as provided in subsection (e) of R.S.43:21-14, and when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund. For the purposes of this subsection, "knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(c) Any person who shall willfully violate any provision of this chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter (R.S.43:21-1 et seq.), and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of \$50.00, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each day such violation continues shall be deemed to be a separate offense.

(d) (1) When it is determined by a representative or representatives designated by the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey that any person, by reason of the knowing, fraudulent nondisclosure or misrepresentation by him, or by anyone acting as his agent, of a material fact, has received any sum as benefits under this chapter (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was disqualified from receiving benefits, or while otherwise not entitled to receive such sum as benefits, such person, unless the director (with the concurrence of the controller) directs otherwise by regulation, shall be liable to repay those benefits in full. The person shall not be liable to repay all or any portion of the overpayment if the representative finds that the person received the overpayment of benefits because of errors or failures to provide information by the employer or errors by the



division, and not because of an error, or knowing, fraudulent nondisclosure or misrepresentation, by the person. If the representative finds that errors made by the person were a cause of the overpayment together with errors of the division, or errors or failures to provide information by the employer, but the person did not make a knowing, fraudulent nondisclosure or misrepresentation, the representative shall determine a portion of the overpayment for which the person is liable taking into consideration possible financial hardship to the person, whether recovery would be against equity and good conscience, and how much the person's errors, compared to errors of the division or employer, contributed to the overpayment occurring, but the amount to which the person shall be liable shall not exceed 50 percent of the overpayment. The employer's account shall not be charged for the amount of an overpayment of benefits if the overpayment was caused by an error of the division and not by any error of the employer, but shall be charged if the overpayment was caused by an error or failure to provide information of the employer. The sum for which the person is found liable to repay shall be deducted from any future benefits payable to the individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by the individual to the division for the unemployment compensation fund, and such sum shall be collectible in the manner provided for by law, including, but not limited to, the filing of a certificate of debt with the Clerk of the Superior Court of New Jersey; provided, however, that, except in the event of fraud, no person shall be liable for any such refunds or deductions against future benefits unless so notified before four years have elapsed from the time the benefits in question were paid. Such person shall be promptly notified of the determination and the reasons therefor. The person shall be provided a written notification of any determination regarding the repayment of an overpayment and the opportunity to file an appeal of the determination within 20 calendar days after a confirmed receipt of a notice of the determination or 30 calendar days after the notice was mailed to the last known address of the person, and a recovery of an overpayment shall not commence until the end of whichever is applicable of the 20- or 30-day periods and the resolution of any appeal made during those periods.

(2) Interstate and cross-offset of state and federal unemployment benefits. To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor, or both, whereby:

(A) Overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 shall be recovered by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, and overpayments of unemployment benefits as determined under the unemployment compensation law of another state shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq.; and

(B) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this State under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq., or any federal program administered by this State, or under the unemployment compensation law of another state or any federal unemployment benefit or allowance program administered by another state under an agreement with the United States Secretary of Labor, if the other state has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, and if the United States agrees, as provided in the reciprocal agreement with this State entered into under subsection (g) of 42 U.S.C.s.503,

that overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 and overpayments as determined under the unemployment compensation law of another state which has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset from benefits or allowances otherwise payable under a federal program administered by this State or another state under an agreement with the United States Secretary of Labor.

(3) The provisions of this subsection shall not be construed as requiring or permitting a waiver of the recovery of any overpayments of unemployment benefits if the waiver is prohibited by any federal law, regulation or administrative directive. A recovery shall not be waived unless the division determines that the claimant is without fault and the repayment would be contrary to equity and good conscience in the case of the recovery of an overpayment of benefit under any of the following programs authorized by the federal "Coronavirus Aid, Relief, and Economic Security (CARES) Act," Pub.L.116-136: Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Mixed Earners Unemployment Compensation (MEUC), Pandemic Unemployment Assistance (PUA), or the first week of regular Unemployment Compensation that is reimbursed in accordance with Section 2105 of the CARES Act".

(e) (1) Any employing unit, or any officer or agent of an employing unit, which officer or agent is directly or indirectly responsible for collecting, truthfully accounting for, remitting when payable any contribution, or filing or causing to be filed any report or statement required by this chapter, or employer, or person failing to remit, when payable, any employer contributions, or worker contributions (if withheld or deducted), or the amount of such worker contributions (if not withheld or deducted), or filing or causing to be filed with the controller or the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey, any false or fraudulent report or statement, and any person who aids or abets an employing unit, employer, or any person in the preparation or filing of any false or fraudulent report or statement with intent to defraud the State of New Jersey or an employment security agency of any other state or of the federal government, or with intent to evade the payment of any contributions, interest or penalties, or any part thereof, which shall be due under the provisions of this chapter (R.S.43:21-1 et seq.), shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed \$1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) Any employing unit, officer or agent of the employing unit, or any other person, who knowingly violates, or attempts to violate, or advise another person to violate the transfer of employment experience provisions found at R.S.43:21-7 (c)(7) shall be, upon conviction before any Superior Court or municipal court, guilty of a crime of the fourth degree. For the purposes of this subsection, "knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(f) Any employing unit or any officer or agent of an employing unit or any other person who aids and abets any person to obtain any sum of benefits under this chapter to which he is not entitled, or a larger amount as benefits than that to which he is justly entitled, shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed \$1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment

compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(g) There shall be created in the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey an investigative staff for the purpose of investigating violations referred to in this section and enforcing the provisions thereof.

(h) An employing unit or any officer or agent of an employing unit who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to reduce benefit charges to the employing unit pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14. The fine when recovered shall be paid to the unemployment compensation auxiliary fund for the use of the fund. Each false statement or representation or failure to disclose a material fact, and each day of that failure or refusal shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in R.S.43:21-1 et seq.

(i) The Department of Labor and Workforce Development shall arrange for the electronic receipt of death record notifications from the New Jersey Electronic Death Registration System, pursuant to section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a verification system to confirm that benefits paid pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and the "unemployment compensation law," R.S.43:21-1 et seq., are not being paid to deceased individuals.

(j) The Department of Labor and Workforce Development shall arrange for the electronic receipt of identifying information from the Department of Corrections, pursuant to section 6 of P.L.1976, c.98 (C.30:1B-6), and from the Administrative Office of the Courts and any county which does not provide county inmate incarceration information to the Administrative Office of the Courts, and establish a verification system to confirm that benefits paid pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., are not being paid to individuals who are incarcerated.

3. This act shall take effect on the 270th day following enactment, except that the division shall, prior to the 270th day after enactment, take all administrative measures necessary to implement this act, including making all needed changes in forms and materials to be provided to employers, and notifying them of what is required to be in compliance with this act, including the requirements to provide the division with an email address for communication to and from the division and to use electronic means to communicate with the department.

Approved November 3, 2022.