

SENATE, No. 2357

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 21, 2022

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Co-Sponsored by:

Senators Corrado, Schepisi, Singleton and A.M.Bucco

SYNOPSIS

Concerns timely payment of UI benefits.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/9/2022)

1 AN ACT concerning the timely payment of unemployment
2 compensation benefits and amending R.S.43:21-6 and R.S.43:21-
3 16.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. R.S.43:21-6 is amended to read as follows:

9 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
10 accordance with such regulations as the Director of the Division of
11 Unemployment and Temporary Disability Insurance of the
12 Department of Labor and Workforce Development of the State of
13 New Jersey may approve. Each employer shall post and maintain
14 on his premises printed notices of his subject status, of such design,
15 in such numbers and at such places as the director of the division
16 may determine to be necessary to give notice thereof to persons in
17 the employer's service. Each employer shall give to each individual
18 at the time he becomes unemployed, for any reason, whether the
19 unemployment is permanent or temporary, a printed copy of benefit
20 instructions. The benefit instructions given to the individual shall
21 include, but not be limited to, the following information: (A) the
22 date upon which the individual becomes unemployed, and, in the
23 case that the unemployment is temporary, to the extent possible, the
24 date upon which the individual is expected to be recalled to work;
25 and (B) that the individual may lose some or all of the benefits to
26 which he is entitled if he fails to file a claim in a timely manner.
27 Both the aforesaid notices and instructions, including information
28 detailing the time sensitivity of filing a claim, and directions
29 provided in advance to all employers regarding what information
30 the division requires employers to provide upon a termination of
31 employment to enable the division to make a benefit determination,
32 including information relevant to whether the individual may be
33 disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-
34 5, shall be supplied by the division to employers without cost to
35 them. When an employer provides benefit instructions to the
36 individual which disclose the date on which unemployment will
37 commence, the employer shall simultaneously provide that
38 disclosure to the division together with information required by the
39 division pursuant to the directions provided in advance by the
40 division. The division shall notify the employer immediately of any
41 failure of the employer to provide information needed by the
42 division to make a benefit determination. Nothing in this section
43 shall be construed so as to require an employer to re-hire an
44 individual formerly in the employer's service.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

7 (3) The division may request that claimants obtain digital
8 identity credentials, but only if the division provides opportunities
9 for claimants to verify their identities even if they do not have the
10 knowledge or access to the equipment needed to obtain the digital
11 identity credentials. Any request by the division for a claimant to
12 obtain digital identity credentials shall include a statement that the
13 claimant may use other means to verify identification, and fully
14 describe the other means, which shall include personal assistance in
15 person or by phone which shall be made available by
16 representatives of the division as needed to prevent any delays in
17 processing claims.

18 (4) Any system that the division establishes for claimants or
19 recipients of benefits to verify identity, to apply for, or to make
20 appeals regarding, benefits either by phone or on-line, shall provide
21 a clearly and prominently expressed option for the claimant or
22 recipient to select from available appointment times an appointment
23 time to speak with a representative to obtain assistance in verifying
24 identity, filing a claim or appeal, or obtaining information regarding
25 the status of a claim or appeal.

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

28 A representative or representatives designated by the director of
29 the division and hereafter referred to as a "deputy" shall promptly
30 examine the claim, and shall notify the most recent employing unit
31 and, successively as necessary, each employer in inverse
32 chronological order during the base year. Such notification shall
33 require said employing unit and employer to furnish such
34 information to the deputy as may be necessary to determine the
35 claimant's eligibility and his benefit rights with respect to the
36 employer in question.

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

40 If any employer or employing unit fails to respond to the request
41 information within 10 days after the mailing, or communicating by
42 electronic means, of such request

43 If any employer or employing unit fails to respond to **the** a
44 request by the division for required information the employer failed
45 to provide, or for additional needed information, within 10 days
46 after **the** a mailing, or **communicating** a communication by
47 electronic means, of **such** the request, the deputy shall rely
48 entirely on information from other sources, including an affidavit to

1 the best of the knowledge and belief of the claimant with respect to
2 his wages and time worked. Except in the event of **【fraud】** a
3 knowing, fraudulent nondisclosure or misrepresentation by the
4 claimant or his agent, if it is determined that any information in
5 such affidavit is erroneous, no penalty shall be imposed on the
6 claimant.

7 The deputy shall make an initial determination contingent upon
8 the receipt of all necessary information and notify the claimant no
9 later than three weeks from the date on which the division received
10 the claim for benefits**【. If】**, except that, if an initial determination
11 cannot be made due to **【the lack of documentation**, notification will
12 be sent to the claimant providing a status of the claim. **The】** a
13 failure of the employer to provide the required information or other
14 information requested by the division, the division will then have an
15 additional two weeks to obtain the **【missing】** information needed to
16 make a determination, **【in order to】** including by means of a
17 claimant affidavit, and make the initial determination and advise the
18 claimant accordingly. The initial determination shall show the
19 weekly benefit amount payable, the maximum duration of benefits
20 with respect to the employer to whom the determination relates, and
21 the ratio of benefits chargeable to the employer's account for benefit
22 years commencing on or after July 1, 1986, and also shall show
23 whether the claimant is ineligible or disqualified for benefits under
24 the initial determination. The employer whose account may be
25 charged for benefits payable pursuant to said determination shall be
26 promptly notified thereof.

27 Whenever an initial determination is based upon information
28 other than that supplied by an employer because such employer
29 failed to provide information as required at the time of layoff, or
30 failed to respond to the deputy's request for additional information,
31 benefit payments based on the determination shall commence
32 immediately, and such initial determination and any subsequent
33 determination thereunder shall be incontestable by the
34 noncomplying employer, as to any charges to his employer's
35 account because of benefits paid prior to the close of the calendar
36 week following the receipt of his reply. Such initial determination
37 shall be altered if necessary upon receipt of information from the
38 employer, and any benefits paid or payable with respect to weeks
39 occurring subsequent to the close of the calendar week following
40 the receipt of the employer's reply and the determination of the
41 division to alter the initial determination shall be paid in accordance
42 with such altered initial determination.

43 The deputy shall issue a separate initial benefit determination
44 with respect to each of the claimant's base year employers, starting
45 with the most recent employer and continuing as necessary in the
46 inverse chronological order of the claimant's last date of
47 employment with each such employer. If an appeal is taken from

1 an initial determination, as hereinafter provided, by any employer
2 other than the first chargeable base year employer or for benefit
3 years commencing on or after July 1, 1986, that employer from
4 whom the individual was most recently separated, then such appeal
5 shall be limited in scope to include only one or more of the
6 following matters:

7 (A) The correctness of the benefit payments authorized to be
8 made under the determination;

9 (B) Fraud in connection with the claim pursuant to which the
10 initial determination is issued;

11 (C) The refusal of suitable work offered by the chargeable
12 employer filing the appeal;

13 (D) Gross misconduct as provided in subsection (b) of
14 R.S.43:21-5.

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

19 Unless the claimant or any interested party, within seven
20 calendar days after **[delivery]** a confirmed receipt of notification of
21 an initial determination or within **[10]** 21 calendar days after
22 **[such]** the notification was mailed to **[his or]** their last-known
23 address and addresses, files an appeal from such decision, such
24 decision shall be final and benefits shall immediately be paid or
25 denied in accordance therewith, except for such determinations as
26 may be altered in benefit amounts or duration as provided in this
27 paragraph. An appeal concerning an initial determination may not
28 be filed after whichever is applicable of the seven-day or 21-day
29 period. Benefits payable for periods pending an appeal **[and not in**
30 **dispute]** shall be paid as such benefits accrue and be paid according
31 to the initial determination but shall be, to the extent that the
32 amount paid exceeds the amount determined in the appeal, regarded
33 as an overpayment subject to the provisions of R.S.43:21-16
34 regarding overpayments, including the requirement of that section
35 that a claimant who makes knowing, fraudulent nondisclosure or
36 misrepresentation is liable to repay the full amount of the
37 overpayment; provided that **[insofar as any such]** if the appeal is
38 **[or may be]** an appeal **[from]** of a determination **[to the effect]**
39 that the claimant is disqualified under the provisions of R.S.43:21-5
40 **[or any amendments thereof or supplements thereto]**, benefits
41 pending determination of the appeal shall be withheld only for the
42 period of disqualification as provided for in **[said]** that section, and
43 **[notwithstanding such]** while the appeal is pending, the benefits
44 otherwise provided by this act shall be paid for the period
45 subsequent to such period of disqualification; provided further that
46 if it is determined in the appeal that the claimant was not
47 disqualified, the claimant shall be paid the benefits due for the

1 period of the disqualification; and provided, also, that if there are
2 two determinations of entitlement, benefits for the period covered
3 by such determinations shall be paid regardless of any appeal which
4 may thereafter be taken, but no employer's account shall be charged
5 with benefits so paid, if the decision is finally reversed.

6 (2) **【**Procedure for making initial determinations in certain cases
7 of concurrent employment, with respect to benefit years
8 commencing on or after January 1, 1953 and prior to benefit years
9 commencing on or after July 1, 1986.

10 Notwithstanding any other provisions of this Title, if an
11 individual shows to the satisfaction of the deputy that there were at
12 least 13 weeks in his base period in each of which he earned wages
13 from two or more employers totaling \$30.00 or more but in each of
14 which there was no single employer from whom he earned as much
15 as \$100.00, then such individual's claim shall be determined in
16 accordance with the special provisions of this paragraph. In such
17 case, the deputy shall determine the individual's eligibility for
18 benefits, his average weekly wage, weekly benefit rate and
19 maximum total benefits as if all his base year employers were a
20 single employer. Such determination shall apportion the liability
21 for benefit charges thereunder to the individual's several base year
22 employers so that each employer's maximum liability for charges
23 thereunder bears approximately the same relation to the maximum
24 total benefits allowed as the wages earned by the individual from
25 each employer during the base year bears to his total wages earned
26 from all employers during the base year. Such initial determination
27 shall also specify the individual's last date of employment within
28 the base year with respect to each base year employer, and such
29 employers shall be charged for benefits paid under said initial
30 determination in the inverse chronological order of such last date of
31 employment.**】** (Deleted by amendment, P.L. _____, c. _____) (now
32 pending before the Legislature as this bill)

33 (3) Procedure for making subsequent determinations with
34 respect to benefit years commencing on or after January 1, 1953.
35 The deputy shall make determinations with respect to claims for
36 benefits thereafter in the course of the benefit year, in accordance
37 with any initial determination allowing benefits, and under which
38 benefits have not been exhausted, and each notification of a benefit
39 payment shall be a notification of an affirmative subsequent
40 determination. **【**The**】** Any change in the allowance, amount, or
41 other characteristic of benefits by the deputy **【on】** in any such
42 determination, or the denial of benefits by the deputy **【on】** in any
43 such determination, shall be appealable in the same manner and
44 under the same limitations as is provided in the case of initial
45 determinations. After an initial determination, the resolution of any
46 appeal of the initial determination, and the payment of one or more
47 weeks of benefits pursuant to the initial determination, if a

1 subsequent determination will result in any reduction or termination
2 of those benefits, the claimant shall be provided notification with a
3 full written explanation of why the reduction or termination of
4 benefits will occur, and provided, during the seven calendar days
5 following the notification, an opportunity to file an appeal before
6 the reduction or termination goes into effect. If the claimant files
7 an appeal during the seven-day period, benefits shall continue to be
8 paid at the rate stipulated in the initial determination until the
9 appeal is resolved. If the claimant does not file an appeal, or the
10 claimant files an appeal and it is found in the resolution of the
11 appeal that the amount in benefits paid during the processing of the
12 appeal exceeded the amount determined in the appeal to be correct,
13 or the claimant is found in the appeal to be ineligible for benefits,
14 any resulting excess payment of benefits shall be regarded as an
15 overpayment subject to the provisions of R.S.43:21-16 regarding
16 overpayments, including the requirement of that section that a
17 claimant who makes knowing, fraudulent nondisclosure or
18 misrepresentation is liable to repay the full amount of the
19 overpayment.

20 (c) Appeals. Unless such appeal is withdrawn, an appeal
21 tribunal, after affording the parties reasonable opportunity for fair
22 hearing, shall affirm or modify the findings of fact and the
23 determination. The parties shall be duly notified of such tribunal's
24 decision, together with its reasons therefor, which shall be deemed
25 to be the final decision of the board of review, unless further appeal
26 is initiated pursuant to subsection (e) of this section within **10** days
27 after the date of notification or mailing of the decision for any
28 decision made on or before December 1, 2010, or within **20** days
29 after the date of notification or mailing of such decision for any
30 decision made after December 1, 2010.

31 (d) Appeal tribunals. To hear and decide disputed benefit
32 claims, including appeals from determinations with respect to
33 demands for refunds of benefits under subsection (d) of R.S.43:21-
34 16, the director with the approval of the Commissioner of Labor and
35 Workforce Development shall establish impartial appeal tribunals
36 consisting of a salaried body of examiners under the supervision of
37 a Chief Appeals Examiner, all of whom shall be appointed pursuant
38 to the provisions of Title 11A of the New Jersey Statutes, Civil
39 Service and other applicable statutes.

40 (e) Board of review. The board of review may on its own
41 motion affirm, modify, or set aside any decision of an appeal
42 tribunal on the basis of the evidence previously submitted in such
43 case, or direct the taking of additional evidence, or may permit any
44 of the parties to such decision to initiate further appeals before it.
45 The board of review shall permit such further appeal by any of the
46 parties interested in a decision of an appeal tribunal which is not
47 unanimous and from any determination which has been overruled or
48 modified by any appeal tribunal. The board of review may remove

1 to itself or transfer to another appeal tribunal the proceedings on
2 any claim pending before an appeal tribunal. Any proceedings so
3 removed to the board of review shall be heard by a quorum thereof
4 in accordance with the requirements of subsection (c) of this
5 section. The board of review shall promptly notify the interested
6 parties of its findings and decision.

7 (f) Procedure. The manner in which disputed benefit claims,
8 and appeals from determinations with respect to (1) claims for
9 benefits and (2) demands for refunds of benefits under subsection
10 (d) of R.S.43:21-16 shall be presented, the reports thereon required
11 from the claimant and from employers, and the conduct of hearings
12 and appeals shall be in accordance with rules prescribed by the
13 board of review for determining the rights of the parties, whether or
14 not such rules conform to common law or statutory rules of
15 evidence and other technical rules of procedure. A full and
16 complete record shall be kept of all proceedings in connection with
17 a disputed claim. All testimony at any hearing upon a disputed
18 claim shall be recorded, but need not be transcribed unless the
19 disputed claim is further appealed.

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

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

39 (i) Failure to give notice. The failure of any public officer or
40 employee at any time heretofore or hereafter to give notice of
41 determination or decision required in subsections (b), (c) and (e) of
42 this section, as originally passed or amended, shall not relieve any
43 employer's account of any charge by reason of any benefits paid,
44 unless and until that employer can show to the satisfaction of the
45 director of the division that the said benefits, in whole or in part,
46 would not have been charged or chargeable to his account had such
47 notice been given. Any determination hereunder by the director
48 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, in a manner consistent with the provisions of R.S.43:21-6; 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, in a manner consistent with the provisions of R.S.43:21-6.

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, 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 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.

(cf: P.L.2017, c.163, s.1)

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

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

1 increase any benefit or other payment under this chapter
2 (R.S.43:21-1 et seq.), or under an employment security law of any
3 other state or of the federal government, either for himself or for
4 any other person, shall be liable to a fine of 25% of the amount
5 fraudulently obtained, to be recovered in an action at law in the
6 name of the Division of Unemployment and Temporary Disability
7 Insurance of the Department of Labor and Workforce Development
8 of the State of New Jersey or as provided in subsection (e) of
9 R.S.43:21-14, said fine when recovered shall be immediately
10 deposited in the following manner: 10 percent of the amount
11 fraudulently obtained deposited into the unemployment
12 compensation auxiliary fund for the use of said fund, and 15 percent
13 of the amount fraudulently obtained deposited into the
14 unemployment compensation fund; and each such false statement or
15 representation or failure to disclose a material fact shall constitute a
16 separate offense. Any penalties imposed by this subsection shall be
17 in addition to those otherwise prescribed in this chapter (R.S.43:21-
18 1 et seq.).

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

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

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

31 (C) Trade readjustment allowances pursuant to 19 U.S.C. 2291-
32 2294;

33 (D) Disaster unemployment assistance pursuant to 42 U.S.C.
34 5177(a);

35 (E) Any federal temporary extension of unemployment
36 compensation;

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

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

41 (b) (1) An employing unit or any officer or agent of an
42 employing unit or any other person who makes a false statement or
43 representation, knowing it to be false, or who knowingly fails to
44 disclose a material fact, to prevent or reduce the payment of
45 benefits to any individual entitled thereto or to avoid becoming or
46 remaining subject hereto or to avoid or reduce any contribution or
47 other payment required from an employing unit under this chapter
48 (R.S.43:21-1 et seq.), or under an employment security law of any

1 other state or of the federal government, or who willfully fails or
2 refuses to furnish any reports required hereunder (except for such
3 reports as may be required under subsection (b) of R.S.43:21-6) or
4 to produce or permit the inspection or copying of records, as
5 required hereunder, shall be liable to a fine of \$100.00, or 25% of
6 the amount fraudulently withheld, whichever is greater, to be
7 recovered in an action at law in the name of the Division of
8 Unemployment and Temporary Disability Insurance of the
9 Department of Labor and Workforce Development of the State of
10 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
11 fine when recovered to be paid to the unemployment compensation
12 auxiliary fund for the use of said fund; and each such false
13 statement or representation or failure to disclose a material fact, and
14 each day of such failure or refusal shall constitute a separate
15 offense. Any penalties imposed by this paragraph shall be in
16 addition to those otherwise prescribed in this chapter (R.S.43:21-1
17 et seq.).

18 (2) Any employing unit or any officer or agent of an employing
19 unit or any other person who fails to submit any report required
20 under subsection (b) of R.S.43:21-6 shall be subject to a penalty of
21 \$25.00 for the first report not submitted within 10 days after the
22 mailing of a request for such report, and an additional \$25.00
23 penalty may be assessed for the next 10-day period, which may
24 elapse after the end of the initial 10-day period and before the
25 report is filed; provided that when such report or reports are not
26 filed within the prescribed time but it is shown to the satisfaction of
27 the director that the failure was due to a reasonable cause, no such
28 penalty shall be imposed. Any penalties imposed by this paragraph
29 shall be recovered as provided in subsection (e) of R.S.43:21-14,
30 and when recovered shall be paid to the unemployment
31 compensation auxiliary fund for the use of said fund.

32 (3) Any employing unit, officer or agent of the employing unit,
33 or any other person, determined by the controller to have knowingly
34 violated, or attempted to violate, or advised another person to
35 violate the transfer of employment experience provisions found at
36 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain
37 a lower rate of contributions by failing to disclose material
38 information, or by making a false statement, or by a
39 misrepresentation of fact, shall be subject to a fine of \$5,000 or
40 25% of the contributions under-reported or attempted to be under-
41 reported, whichever is greater, to be recovered as provided in
42 subsection (e) of R.S.43:21-14, and when recovered to be paid to
43 the unemployment compensation auxiliary fund for the use of said
44 fund. For the purposes of this subsection, "knowingly" means
45 having actual knowledge of, or acting with deliberate ignorance or
46 reckless disregard for the prohibition involved.

47 (c) Any person who shall willfully violate any provision of this
48 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,

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

12 (d) (1) When it is determined by a representative or
13 representatives designated by the Director of the Division of
14 Unemployment and Temporary Disability Insurance of the
15 Department of Labor and Workforce Development of the State of
16 New Jersey that any person, **【whether (i)】** by reason of the
17 knowing, fraudulent nondisclosure or misrepresentation by him, or
18 by **【another】** anyone acting as his agent, of a material fact
19 **【(whether or not such nondisclosure or misrepresentation was**
20 **known or fraudulent), or (ii) for any other reason】**, has received any
21 sum as benefits under this chapter (R.S.43:21-1 et seq.) while any
22 conditions for the receipt of benefits imposed by this chapter
23 (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was
24 disqualified from receiving benefits, or while otherwise not entitled
25 to receive such sum as benefits, such person, unless the director
26 (with the concurrence of the controller) directs otherwise by
27 regulation, shall be liable to repay those benefits in full. The person
28 shall not be liable to repay all or any portion of the overpayment if
29 the representative finds that the person received the overpayment of
30 benefits because of errors or failures to provide information by the
31 employer or errors by the division, and not because of an error, or
32 knowing, fraudulent nondisclosure or misrepresentation, by the
33 person. If the representative finds that errors made by the person
34 were a cause of the overpayment together with errors of the
35 division, or errors or failures to provide information by the
36 employer, but the person did not make a knowing, fraudulent
37 nondisclosure or misrepresentation, the representative shall
38 determine a portion of the overpayment for which the person is
39 liable taking into consideration possible financial hardship to the
40 person, whether recovery would be against equity and good
41 conscience, and how much the person's errors, compared to errors
42 of the division or employer, contributed to the overpayment
43 occurring, but the amount to which the person shall be liable shall
44 not exceed 50 percent of the overpayment. The employer's account
45 shall not be charged for the amount of an overpayment of benefits if
46 the overpayment was caused by an error of the division and not by
47 any error of the employer, but shall be charged if the overpayment
48 was caused by an error or failure to provide information of the

1 employer. The sum for which the person is found liable to repay
2 shall be deducted from any future benefits payable to the individual
3 under this chapter (R.S.43:21-1 et seq.) or shall be paid by the
4 individual to the division for the unemployment compensation fund,
5 and such sum shall be collectible in the manner provided for by law,
6 including, but not limited to, the filing of a certificate of debt with
7 the Clerk of the Superior Court of New Jersey; provided, however,
8 that, except in the event of fraud, no person shall be liable for any
9 such refunds or deductions against future benefits unless so notified
10 before four years have elapsed from the time the benefits in
11 question were paid. Such person shall be promptly notified of the
12 determination and the reasons therefor. The determination
13 regarding the repayment of an overpayment shall be final unless the
14 person files an appeal of the determination within **【**seven calendar
15 days after the delivery of the determination, or within 10 calendar
16 days after such notification was mailed to his last-known address,
17 for any determination made on or before December 1, 2010, and
18 any initial determination made pursuant to paragraph (1) of
19 subsection (b) of R.S.43:21-6 after December 1, 2010, or within 20
20 calendar days after the delivery of such determination, or within 20
21 calendar days after such notification was mailed to his last-known
22 address, for any determination other than an initial determination
23 made after December 1, 2010**】** 20 calendar days after a confirmed
24 receipt of a notice of the determination or 30 calendar days after the
25 notice was mailed to the last known address of the person.

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

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

40 (B) Overpayments of unemployment benefits as determined
41 under applicable federal law, with respect to benefits or allowances
42 for unemployment provided under a federal program administered
43 by this State under an agreement with the United States Secretary of
44 Labor, shall be recovered by offset from unemployment benefits
45 otherwise payable under R.S.43:21-1 et seq., or any federal program
46 administered by this State, or under the unemployment
47 compensation law of another state or any federal unemployment
48 benefit or allowance program administered by another state under

1 an agreement with the United States Secretary of Labor, if the other
2 state has in effect a reciprocal agreement with the United States
3 Secretary of Labor as authorized by subsection (g) of 42
4 U.S.C.s.503, and if the United States agrees, as provided in the
5 reciprocal agreement with this State entered into under subsection
6 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits
7 as determined under subsection (d) of R.S.43:21-16 and
8 overpayments as determined under the unemployment
9 compensation law of another state which has in effect a reciprocal
10 agreement with the United States Secretary of Labor as authorized
11 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset
12 from benefits or allowances otherwise payable under a federal
13 program administered by this State or another state under an
14 agreement with the United States Secretary of Labor.

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

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

1 deliberate ignorance or reckless disregard for the prohibition
2 involved.

3 (f) Any employing unit or any officer or agent of an employing
4 unit or any other person who aids and abets any person to obtain
5 any sum of benefits under this chapter to which he is not entitled, or
6 a larger amount as benefits than that to which he is justly entitled,
7 shall be liable for each offense upon conviction before any Superior
8 Court or municipal court, to a fine not to exceed \$1,000.00 or by
9 imprisonment for a term not to exceed 90 days, or both, at the
10 discretion of the court. The fine upon conviction shall be payable to
11 the unemployment compensation auxiliary fund. Any penalties
12 imposed by this subsection shall be in addition to those otherwise
13 prescribed in this chapter (R.S.43:21-1 et seq.).

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

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

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

42 (j) The Department of Labor and Workforce Development shall
43 arrange for the electronic receipt of identifying information from
44 the Department of Corrections, pursuant to section 6 of P.L.1976,
45 c.98 (C.30:1B-6), and from the Administrative Office of the Courts
46 and any county which does not provide county inmate incarceration
47 information to the Administrative Office of the Courts, and
48 establish a verification system to confirm that benefits paid

1 pursuant to the "unemployment compensation law," R.S.43:21-1 et
2 seq., are not being paid to individuals who are incarcerated.
3 (cf: P.L.2013, c.274, s.5)

4
5 3. This act shall take effect on the 30th day following
6 enactment.

7
8
9 STATEMENT

10
11 This bill makes changes in the administration of unemployment
12 insurance (UI) benefits by the Division of Unemployment Insurance
13 to expedite the timely payment of benefits by:

14 1. Requiring the division to inform all employers of what
15 information they are required, at the time of any layoff, to provide
16 to the division to enable it to make timely benefit determinations,
17 and notify employers immediately of any failure to provide the
18 required information.

19 2. Permitting the division to request that claimants obtain
20 digital identity credentials, but only if the division provides
21 opportunities for claimants to verify their identities even if they do
22 not have the needed knowledge or access to the equipment to do so,
23 by informing claimants that they may use other means to verify
24 identification, including personal assistance in person or by phone
25 provided by the division as needed to prevent any delays in
26 processing claims.

27 3. Requiring that any system the division establishes for
28 claimants or recipients of benefits to verify identity, to apply for, or
29 to make appeals regarding, benefits, either by phone or on-line,
30 shall include a clearly and prominently expressed option for the
31 claimant or recipient to select from available appointment times an
32 appointment time to speak with a representative to obtain assistance
33 in verifying identity, filing a claim or appeal, or obtaining
34 information regarding the status of a claim or appeal.

35 4. Increasing the times in which various appeals may be made,
36 including increasing from 10 days to 21 days, the time within which
37 an appeal of an initial determination may be filed, and expressly
38 prohibits the filing of an appeal after the applicable time periods.

39 5. Requiring that benefits be paid according to the initial
40 determination during any appeal of the initial determination, but, to
41 the extent that the amount paid exceeds the amount determined in
42 the appeal, be regarded as an overpayment subject to the provisions
43 of R.S.43:21-16 regarding the repayment of overpayments.

44 6. Providing that, after an initial determination, the resolution
45 of any appeal of the initial determination, and the payment of one or
46 more weeks of benefits pursuant to the initial determination, if there
47 is any reduction or termination of those benefits, the claimant shall
48 be provided notification with a full written explanation of why the

1 reduction or termination of benefits will occur, and an opportunity
2 for the claimant appeal the reduction or termination during a seven-
3 day period after notification. If the claimant files an appeal,
4 benefits shall continue to be paid at the rate stipulated in the initial
5 determination until the appeal is resolved. If the claimant does not
6 file an appeal, or if the claimant appeals and it is found that the
7 amount in benefits paid during the appeal exceeded the amount
8 determined in the appeal to be correct, or the claimant is found to be
9 ineligible for benefits, any resulting excess payment of benefits
10 shall be regarded as an overpayment subject to the provisions of
11 R.S.43:21-16 regarding overpayments.

12 7. Making a claimant who receives benefits by reason of a
13 knowing, fraudulent nondisclosure or misrepresentation liable to
14 repay those benefits in full, but provides that a claimant is not liable
15 to repay any overpayment of benefits if the overpayment of benefits
16 was caused by errors, or failures to provide information by the
17 employer, or errors by the division, and not caused by an error, or
18 knowing, fraudulent nondisclosure or misrepresentation, made by
19 the claimant, and further provides that if the overpayments were
20 caused by both errors of the claimant and errors of the employer or
21 division, the claimant is liable for a portion of the overpayment not
22 exceeding 50 percent which is determined by the division taking
23 into consideration possible financial hardship, whether recovery
24 would be against equity and good conscience, and how much the
25 person's errors, compared to errors of the division or employer
26 contributed to the overpayment occurring.