ILLINOIS UNEMPLOYMENT INSURANCE LAW HANDBOOK

RULES OF THE ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY

TITLE 2
ILLINOIS ADMINISTRATIVE CODE
PART 1301

TITLE 26
ILLINOIS ADMINISTRATIVE CODE
PARTS 310-311

TITLE 56
ILLINOIS ADMINISTRATIVE CODE
PARTS 2712-2970

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CHAPTER XXV: DEPARTMENT OF EMPLOYMENT SECURITY
PART 1301 ACCESS TO RECORDS OF THE DEPARTMENT OF EMPLOYMENT SECURITY
SUBPART A: INTRODUCTION

Section 1301.110 Summary and Purpose

a) This Part states the policy of the Department of Employment Security for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.

b) This Part:

1) Establishes the following classifications for records in the Agency's possession:

A) Records that shall be disclosed; and

B) Records that shall be withheld from disclosure.

2) Contains the procedures by which requesters may obtain records in the Agency's possession; and

3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

(Source: Amended at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.120 Definitions

a) Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act and the Illinois Unemployment Insurance Act.

b) The following definitions are applicable for purposes of this Part:

"Act" means the Illinois Unemployment Insurance Act [820 ILCS 405].

"Agency" means the Illinois Department of Employment Security.

"Commercial purpose" means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles of opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education. (Section 2(c-10) of FOIA)

"Copying" means the reproduction of any public record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Agency. (Section 2(d) of FOIA)

"Director" means the Director of the Agency.

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in paper or electronic form, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Private information" means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Public records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Agency. (Section 2(c) of FOIA)

"Requester" means a person who submits to the Agency a written request, electronically or on paper, for records.

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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SUBPART B: CLASSIFICATION OF RECORDS

Section 1301.201 Records that Will Be Disclosed

Upon receiving a request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 1301.202 or 1301.203. Records covered under this Section shall include, but are not limited to, records identified in Sections 2.5, 2.10, 2.15, and 2.20 of FOIA.

a) *Records of funds. All records relating to the obligation, receipt, and use of public funds of the* Agency *are public records subject to inspection and copying by the public.* (Section 2.5 of FOIA)

b) *Payrolls. Certified payroll records submitted to the* Agency *under Section 5(a)(2) of the Prevailing Wage Act* [820 ILCS 130] *are public records subject to inspection and copying in accordance with the provisions of* FOIA*; except that contractors' and employees' addresses, telephone numbers, and social security numbers will be redacted by the* Agency *prior to disclosure.* (Section 2.10 of FOIA)

c) *Criminal history records. The following documents maintained by* the Agency *pertaining to criminal history record information are public records subject to inspection and copying by the public pursuant to* FOIA*:*

1) *Court records that are public;*

2) *Records that are otherwise available under State or local law; and*

3) *Records in which the requesting party is the individual identified, except as provided under* FOIA Section (7)(1)(d)(vi).

d) *Settlement and severance agreements. All settlement and severance agreements entered into by or on behalf of* the Agency *are records subject to inspection and copying by the public, provided that information exempt from disclosure* under Section 1301.202 or 1301.203 of this Part may be redacted. (Section 2.20 of FOIA)

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.202 Records that Will Be Withheld from Disclosure

a) Information and data that meet one or more exemption as set forth in Section 7 of FOIA will be withheld. If it is not unduly burdensome, as defined in Section 1301.402, to redact exempt information and data from a record and produce a redacted copy of the record, the exempt information may be redacted and the redacted record produced as provided for in Section 7 of FOIA.

b) *A record that is not in the possession of the* Agency *but is in the possession of a party with whom the* Agency *has contracted to perform a governmental function on behalf of the* Agency*, and that directly relates to the governmental function and is not otherwise exempt under* FOIA*, shall be considered a record of the* Agency *for purposes of* Subpart C. (Section 7(2) of FOIA)

c) *When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the* Agency *shall make the remaining information available for inspection and copying.* (Section 7(1) of FOIA).

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.203 Statutory Exemptions

Records that are required to remain confidential under Section 1900 of the Illinois Unemployment Insurance Act [820 ILCS 405/1900], will not be produced as they are exempt under Section 7(1)(a) of FOIA. For a non-exhaustive list of exemptions from FOIA that are stated in other statutes, see Section 7.5 of FOIA.

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.210 Office to Which Requests are Submitted (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.220 Form and Content of Requests (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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SUBPART C: REQUESTING RECORDS FROM THE AGENCY

Section 1301.301 Submittal of Requests for Records

a) Any request for public records should be submitted in writing to the FOI Officer at the Agency.

b) The Agency has one FOI Officer, located in the 115 South LaSalle Street, Chicago, Illinois 60603 office.

c) Contact information for the FOI Officer can be found online at https://www.illinois.gov/about/foia-contacts.html.

d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Department of Employment Security
c/o FOI Officer
115 South LaSalle Street, Floor LL2
Chicago, Illinois 60603

e) E-mailed requests should be sent to des.foiarequest@illinois.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 312/793-5645, Attn: FOI Officer.

(Source: Amended at 49 Ill. Reg. 11112, effective August 20, 2025)

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Section 1301.302 Information To Be Provided in Requests for Records
A request for records should include:

a) The complete name, mailing address and telephone number of the requester;

b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 1301.402 of this Part.);

c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;

d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;

e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification;

f) A statement as to whether the request is for a commercial purpose; and

g) If the request involves unemployment insurance records for an individual or employing unit, a detailed explanation of the purpose for which the records are needed.

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.303 Requests for Records for Commercial Purposes

a) *It is a violation of* FOIA *for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency.* (Section 3.1(c) of FOIA)

b) The Agency *shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*

1) *Provide to the requester an estimate of the time required by the* Agency *to provide the records requested and an estimate of the fees to be charged, which the* Agency *may require the person to pay in full before copying the requested documents;*

2) *Deny the request pursuant to one or more of the exemptions set out in* Section 7 or 7.5 of FOIA or Section 1301.202 or 1301.203;

3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

4) *Provide the records requested.* (Section 3.1(a) of FOIA)

c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.* (Section 3.1(b) of FOIA)

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.310 Timeline for Department Response (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.320 Categories of Department Responses (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section 1301.401 Timeline for Agency Response

a) Except as stated in Section 1301.303 or subsection (b) or (c), the Agency will respond to any *written request for records within 5 business days after its receipt of the request at the address given in Section 1301.301. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 1301.402. (Section 3(d) of FOIA)* A written request from the Agency to provide additional information shall be considered a response to the FOIA request.

b) *The time limits prescribed in subsection* (a) *may be extended for not more than5 business days from the original due date for any of the following reasons:*

1) The requested records are stored in whole or in part at locations other than the office having charge of the requested records;

2) *The request requires the collection of a substantial number of specified records;*

3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*

4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*

5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*

6) The request for records cannot be complied with by the Agency within the time limits prescribed by subsection (a) *without unduly burdening or interfering with the operations of the Agency*; or

7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.* (Section 3(e) of FOIA)

c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records.* (Section 3(e) of FOIA)

d) *When additional time is required for any of the reasons set forth in subsection (b), the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the*

requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 1301.402. (Section 3(f) of FOIA)

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.402 Requests for Records that the Agency Considers Unduly Burdensome

a) The Agency will fulfill *requests calling for all records falling within a category unless compliance with the request would be unduly burdensome for the* Agency*, there is no way to narrow the request, and the burden on the* Agency *outweighs the public interest in the information. Before invoking this exemption, the* Agency *will extend to the* requester *an opportunity to confer with it in an attempt to reduce the request to manageable proportions.* (Section 3(g) of FOIA) The amended request must be in writing.

b) *If the* Agency *responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described* in subsection (a) of this Section *are met, the* Agency *shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the* Agency. *Such a response shall be treated as a denial of the request for information.* (Section 3(g) of FOIA)

c) *Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this* Part *shall be deemed unduly burdensome.* (Section 3(g) of FOIA)

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.403 Requests for Records that Require Electronic Retrieval

a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.

b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.404 Denials of Requests for Records

a) The Agency will deny requests for records when:

1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 1301.402, and the requester has not reduced the request to manageable proportions; or

2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 1301.202 or 1301.203.

b) The denial of a request for records must be in writing.

1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);

2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); *and*

3) *When a request for public records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).

c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

d) If the Agency has given written notice pursuant to Section 1301.401(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.

e) *Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the* Agency *fails to act within the time periods provided in* Section 1301.401. (Section 9(c) of FOIA)

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.405 Requests for Review of Denials – Public Access Counselor

a) *A person whose request to inspect or copy a public record is denied by* the Agency *may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial.* (Section 9.5(a) of FOIA)

b) *A person whose request to inspect or copy a public record is made for a commercial purpose as defined in* Section 1301.120 *may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a public record was treated by* the Agency *as a request for a commercial purpose under Section 3.1 of* FOIA *may file a request for review with the Public Access Counselor for the limited purpose of reviewing whether* the Agency *properly determined that the request was made for a commercial purpose.*

c) *A person whose request to inspect or copy a public record was treated by the* Agency *as a voluminous request under Section 3.6 of* FOIA *may file a request for review with the Public Access Counselor for the purpose of reviewing whether* the Agency *properly determined that the request was a voluminous request.* (Section 9.5(b) of FOIA)

d) *Within 7 business days after receipt of the request for* review from the Public Access Counselor, the Agency *shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

e) *Within 7 business days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the* Agency *may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.* (Section 9.5(d) of FOIA)

f) *The requester may, but is not required to, respond in writing to the answer within 7 business days and shall provide a copy of the response to the* Agency. (Section 9.5(d) of FOIA)

g) *In addition to the request for review, and the answer and response thereto, if any, a requester or the* Agency *may furnish affidavits or records concerning any matter germane to the review.* (Section 9.5(e) of FOIA)

h) A binding opinion from the Attorney General *shall be binding upon both the requester and the* Agency, *subject to administrative review under* Section 1301.407. (Section 9.5(f) of FOIA)

i) If the Attorney General decides to *exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable.* (Section 9.5(f) of FOIA)

j) *Upon receipt of a binding opinion concluding that a violation of* FOIA *has occurred, the* Agency *shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 1301.407. *If the opinion concludes that no violation of* FOIA *has*

occurred, the requester may initiate administrative review under Section 1301.407. (Section 9.5(f) of FOIA)

k) If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)

l) *If the requester files suit under* Section 1301.406 *with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall take no further action with respect to the request for review and shall so notify the* Agency. (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to the* Agency *regarding compliance with* FOIA. *A review may be initiated upon receipt of a written request from the* Director of the Agency *or the* Agency's Chief Legal Counsel, *which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the* Agency *in order to assist in the review.* If the Agency *relies in good faith on an advisory opinion of the Attorney General in responding to a request, the* Agency *is not liable for penalties under* FOIA, *so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.* (Section 9.5(h) of FOIA)

(Source: Amended at 48 Ill. Reg. 10197, effective June 28, 2024)

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Section 1301.406 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.407 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Agency shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.410 Appeal of a Denial (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.420 Director's Response to Appeal (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 1301.510 Inspection of Records

a) The Agency may make available records for personal inspection at the Agency's Chicago central office located at 115 South LaSalle Street, Chicago, Illinois, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the Agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

b) *When a person requests a copy of a record maintained in an electronic format, the Agency will furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency will furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester.* (Section 6(a) of FOIA)

c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.

d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.

e) The requester will have access only to the designated inspection area.

f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.

g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

(Source: Amended at 49 Ill. Reg. 11112, effective August 20, 2025)

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Section 1301.511 Copying of Records; Fees

a) In accordance with Section 1301.512, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.

b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the* records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)

c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1301.401, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Chicago, Illinois, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.

d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Director of Employment Security".

e) If a contractor is used to inspect or copy records, the following procedures shall apply:

1) The requester, rather than the Agency must contract with the contractor;

2) The requester is responsible for all fees charged by the contractor;

3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;

4) Only Agency personnel may provide records to the contractor;

5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and

6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.512 Reduction and Waiver of Fees

a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*

1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*

2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.* (Section 6(c) of FOIA)

b) The Agency will provide copies of records without charge to federal, State, and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.

c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format.* (Section 6(a) of FOIA)

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.520 Copies of Public Records (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.530 General Materials Available from the Office of the Commissioner (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.APPENDIX A Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	$.15/page
Paper copy from microfilm original	$.15/page
Microfilm diazo from original	$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

(Source: Added at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.ILLUSTRATION A Request for Public Records (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.ILLUSTRATION B Denial of Request for Public Records (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.ILLUSTRATION C Partial Approval of Request for Public Records (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.ILLUSTRATION D Deferral of Response to Request for Public Records (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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Section 1301.ILLUSTRATION E FOIA Appeal − Director's Response (Repealed)

(Source: Repealed at 35 Ill. Reg. 6066, effective March 25, 2011)

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TITLE 26: Elections
CHAPTER I: STATE BOARD OF ELECTIONS
PART 310 JOINT RULES OF THE STATE BOARD OF ELECTIONS AND THE DEPARTMENT OF EMPLOYMENT SECURITY: AUTOMATIC VOTER REGISTRATION

Section 310.10 Automatic Voter Registration; Department of Employment Security
Each designated automatic voter registration agency shall, pursuant to an interagency contract and jointly adopted rules with the State Board of Elections, agree to participate in an automatic voter registration program established by the State Board Elections that satisfies the requirements of this Section and other applicable law. [10 ILCS 5/1A-16.2(a)] The Department of Employment Security (DES) and the State Board of Elections (SBE) will implement the following procedures in their administration of Sections 1A-16.2 and 1A-16.7 of the Election Code (Code) [10 ILCS 5]:

a) SBE will provide the technological means by which information contained on an individual's DES application for unemployment insurance benefits will be transferred to the SBE online voter registration system for completion by the voter registration applicant. The applicant will be provided the opportunity to complete the prefilled online voter registration application via the online voter registration system established and maintained by SBE in accordance with Section 1A-16.5(a) of the Code.

b) DES will make information available for transfer to the SBE online voter registration system that it collects in its usual course of business from unemployment insurance benefit applications. SBE will not knowingly forward to an election authority a voter registration application that contains a business address or post office box as primary residence or otherwise omits a required element of a voter registration application. (See 10 ILCS 5/1A-16).

c) If DES transmits information from unemployment insurance benefits applications to the SBE online voter registration system for completion, SBE will conspicuously inform applicants in writing when voter registration via electronic application is closed. SBE will make technological means available by which DES, as its technological capabilities allow, may submit voter registration applications to SBE during grace period registration under Section 4-50, 5-50, or 6-100 of the Code. (See 10 ILCS 5/1A-16.2(a)).

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CHAPTER II: DEPARTMENT OF EMPLOYMENT SECURITY
PART 311 JOINT RULES OF THE DEPARTMENT OF EMPLOYMENT SECURITY AND THE STATE BOARD OF ELECTIONS: AUTOMATIC VOTER REGISTRATION

SOURCE: Adopted at 49 Ill. Reg. 11118, effective August 20, 2025.

(Editor's Note: This Part is a joint rule of the Department of Employment Security and the State Board of Elections. The text of this Part appears at 26 Ill. Adm. Code 310.)

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONS
PART 2712 GENERAL APPLICATION
SUBPART A: FACSIMILE MACHINES

Section 2712.1 Use of Facsimile Machines

Notwithstanding any other provisions of this Chapter to the contrary, any document that is a response to or protest of a statement or notice that has been issued by the Department or the Director to which there are protest or appeal rights may be filed by facsimile transmission sent to the designated Department address. The date imprinted on the document by the Department's telefax machine shall have the same effect as the U.S. Postal Service's postmark. The individual or entity filing a document by telefax transmission bears the risk that the transmission will not be successful. The date imprinted on the transmission confirmation document by the sender's telefax machine may be presented as evidence of successful transmission and filing of the document.

(Source: Amended at 43 Ill. Reg. 6372, effective May 14, 2019)

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Section 2712.10 Department's Chicago Central Office Address

a) The mailing address of the Department's Chicago central office is:

Illinois Department of Employment Security
115 South LaSalle Street, Floor LL2
Chicago, Illinois 60603

b) Unless stated otherwise in communications from the Department, the mailing address for any unit, division, or subdivision of the Department is to the Department in care of the specific unit, division, or subdivision at the Department's Chicago central office address.

1) EXAMPLE: Pursuant to 56 Ill. Adm. Code 2725.55, an employer seeks to obtain from the Department a form referred to in 56 Ill. Adm. Code 2760.120. A blank copy of the form is available on the Department's website (ides.illinois.gov). However, the form may also be obtained by contacting the Department's Revenue Division. The mailing address for the Department's Revenue Division is:

Illinois Department of Employment Security
c/o Revenue Division
115 South LaSalle Street, Floor LL2
Chicago, Illinois 60603

2) EXAMPLE: The Department sends an employer a Statement of Benefit Charges (form BEN-118) for a particular quarter. The BEN-118 informs the employer that if it seeks to file an Application for Revision of the Statement of Benefit Charges, the employer is to send the Application to the Department's Regional Office at the address stated on the BEN-118. The Regional Office is not located at the Department's Chicago central office. In this case, the employer should not send the Application to the Department's Chicago central office. Instead, the employer should send the Application to the Department's Regional Office at the address stated on the Statement of Benefit Charges.

3) EXAMPLE: An individual has filed a claim for unemployment insurance benefits and has been denied benefits by a determination from which the individual has filed an appeal. The individual's appeal is scheduled for a hearing by the Department's Appeals Division. Under 56 Ill. Adm. Code 2720.210, the individual may inspect the Appeals Division's file. If the individual seeks to contact the Department's Appeals Division in order to arrange an inspection of the file, the individual may contact the Appeals Division at:

Illinois Department of Employment Security
c/o Appeals Division
115 South LaSalle Street, Floor LL2
Chicago, Illinois 60603

(Source: Added at 49 Ill. Reg. 11121, effective August 20, 2025)

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SUBPART B: DIGESTS AND REPORTERS

Section 2712.100 IDES Board of Review Reporter (Repealed)

(Source: Repealed at 43 Ill. Reg. 6372, effective May 14, 2019)

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Section 2712.105 Digest of Adjudication Precedents

a) The Department of Employment Security publishes as an abridged reporter a compilation of selected Board of Review decisions, court orders and published appellate court decisions in the Digest of Adjudication Precedents (the Digest). It is available as part of a larger publication known as the Illinois Unemployment Insurance Law Handbook (the Handbook).

b) Availability of the Handbook
Copies of the Handbook shall be available free of charge at the Department's website https://ides.illinois.gov.

c) Any individual desiring to submit a decision or order for inclusion in the Digest may do so by submitting a copy of that decision or order and the individual's rationale for the inclusion to the Department of Employment Security, in care of the Office of Legal Counsel, at the address stated in Section 2712.10.

d) To be considered for inclusion in the Digest, a decision must fulfill any one of the following criteria:

1) The decision resolves an issue not already included in the Digest;

2) The decision modifies, creates an exception to, overrules, reverses, extends or changes a ruling previously included in the Digest;

3) The decision presents a fact pattern likely to repeat itself in future cases; or

4) The decision provides a statement of applicable facts and states a general principle of law that is readily applicable to the daily work of an Adjudicator, Referee or the Board of Review.

(Source: Amended at 49 Ill. Reg.11121, effective August 20, 2025)

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SUBPART C: LEGAL SERVICES PROGRAM

Section 2712.201 Definitions

All other terms used in this Part shall have the meaning set forth in the Unemployment Insurance Act [820 ILCS 405] (Act).

"Small employer" is any employing unit, as defined in Section 204 of the Act [820 ILCS 405/204], that reported wages paid to fewer than 20 individuals, whether part time or full time, for each of any two of the four calendar quarters preceding the quarter in which its application for legal assistance is made.

"Tax case" will mean an appeal brought pursuant to 56 Ill. Adm. Code 2725.

"Valid claim or defense" is one which, to the best of the provider or attorney's knowledge, information and belief formed after reasonable inquiry, within the necessary time constraints, is well grounded in fact and is warranted by existing law, is not interposed for any improper purpose (i.e., for the purpose of harassment or delay) and, if proven by a preponderance of the legally competent evidence of record at a hearing on that issue, would require the proponent of the claim or defense to prevail.

(Source: Amended at 33 Ill. Reg. 9617, effective July 1, 2009)

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Section 2712.202 Agreement To Hold the Department Of Employment Security And Its Employees Harmless

By participating in this legal services program, individuals and small employers acknowledge that the Department of Employment Security and its employees are not responsible for the quality of the legal services that are provided and that their sole remedy for any alleged malpractice shall be an action against the legal services provider or attorney involved in the matter.

(Source: Added at 13 Ill. Reg. 795, effective January 4, 1989)

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Section 2712.203 Eligibility Requirements for Legal Services for Individuals

a) If funding is available for the service, individuals whose claims are in dispute before either a claims adjudicator or a referee can qualify for legal services under this Part to pursue their appeals to the referee, the Director, the Director's representatives or the Board of Review if they can present a valid claim or defense.

EXAMPLE: An individual quits his job in Chicago to relocate in California where he can pursue his dream of becoming an internationally renowned surfer. The claims adjudicator holds that he quit his job without good cause attributable to his employer. The individual admits that he quit his job solely to pursue his surfing goal but wishes to appeal the claims adjudicator's determination because he needs his unemployment benefits to finance his ambitions. This individual would not qualify for legal services under this Part because he has presented no legal justification under existing precedent for his appeal.

b) Whether a claim or defense is valid will be determined by the attorney assigned to the case by the legal service provider. If the individual disagrees with the judgment of the attorney assigned to the matter by the legal service provider, the individual may pursue the internal review process established by the legal service provider. If the internal review process of the legal service provider still results in a decision that the individual does not have a " valid" claim or if the individual decides to forego the legal service provider's internal review process, he or she can hire a private attorney who may then be eligible for reimbursement pursuant to Section 2712.207(b).

c) Application for legal services under this Part must be made at least three working days prior to the date of a scheduled hearing before the referee. Failure to make application for services prior to three working days before the hearing shall disqualify the individual from receiving these services if the attorney assigned by the legal service provider finds that the reason that the individual failed to apply for the services prior to the three-day period would not constitute good cause for a continuance under 56 Ill. Adm. Code 2720.240.

1) EXAMPLE 1: On the date of his hearing, the individual appears at the office of the legal services provider and requests an attorney to represent him at his hearing later in the day. If the attorney assigned to his case finds that the reason that this individual failed to seek legal assistance prior to this time would constitute good cause for a continuance under 56 Ill. Adm. Code 2720.240, then, if the claimant meets the other criteria for eligibility for this program, the attorney will agree to represent this individual.

2) EXAMPLE 2: On the date of her hearing before the referee, the individual appears at the office of the legal services provider and requests an attorney to appear on her behalf at the scheduled hearing that day. If the individual's reason for failing to seek legal assistance prior to this time would not constitute good cause for a continuance under 56 Ill. Adm. Code 2720.240 in the judgment of the assigned attorney, then the attorney will deny the individual the requested representation at the referee hearing. However, if the individual is otherwise eligible for the program, the fact that she was denied assistance under this subsection at the hearing before the referee would not preclude the individual from seeking assistance in preparing her appeal to the Board of Review if the referee rules against her after her hearing.

d) Even if individuals do not qualify for legal services under this Section because they do not have a valid

claim or defense, they shall be entitled to a maximum of one-half hour of legal advice regarding their unemployment insurance claim from the attorney assigned to the matter by the legal services provider.

(Source: Amended at 43 Ill. Reg. 6372, effective May 14, 2019)

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Section 2712.205 Eligibility Requirements For Legal Services For Small Employers

a) Except for any unpaid contributions, penalties or interest which are the subject of the appeal for which the legal services are requested, a small employer requesting services under this program must not be delinquent in the payment of any monies due the Director under this Act.

b) The small employer must present a valid claim or defense to the action for which the legal services are sought. Whether a claim or defense is valid will be determined by the attorney assigned to the case by the legal service provider. If the small employer disagrees with the judgment of the attorney assigned to the matter by the legal service provider, it may pursue the internal review process established by the legal service provider. If the internal review process of the legal service provider still results in a decision that the small employer does not have a " valid" claim or if the small employer decides to forego the legal service provider's internal review process, it can hire a private attorney who may then be eligible for reimbursement pursuant to Section 2712.207(b).

c) Application for legal services under this Part must be made at least three working days prior to the date of a scheduled hearing pursuant to 56 Ill. Adm. Code 2725 or before the referee under 56 Ill. Adm. Code 2720. Failure to make application for services prior to three working days before the hearing shall disqualify the small employer from receiving such services if the attorney assigned by the legal service provider finds that the reason that the small employer failed to apply for such services prior to such 3 day period would not constitute good cause for a continuance under 56 Ill. Adm. Code 2720.240. See examples following Section 2712.203(c).

d) To be eligible for legal services at a hearing, the small employer must be a "party", as defined in 56 Ill. Adm. Code 2720.1 or must be the appellant to an adverse decision, determination, order or ruling under 56 Ill. Adm. Code 2725 or the issue for which the legal services are being sought must be whether the small employer is a "party" as defined in 56 Ill. Adm. Code 2720.1.

e) Even if the small employer does not qualify for legal services under this Section because it does not have a valid claim or defense, it shall be entitled to a maximum of one-half hour of legal advice regarding its unemployment insurance claim from the attorney assigned to the matter by the legal services provider.

(Source: Amended at 17 Ill. Reg. 3194, effective March 2, 1993)

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Section 2712.207 Attorney Eligibility for Requirements

a) The Director of the Department of Employment Security will contract separately for individuals and small employers with one or more legal service providers who will then be responsible to either hire staff attorneys or for assembling a referral panel of attorneys for providing the legal services pursuant to Section 802 of the Act [820 ILCS 405/802]. Except as provided in subsection (b), the Director shall make no payments for legal services under this Part to anyone other than the legal service providers.

b) If any individual or small employer is denied legal services by a legal service provider because that individual's or small employer's claim or defense was determined not to be valid and that individual or small employer then hires a private attorney and prevails on that claim or defense, the individual or small employer shall be entitled to reimbursement for the services of the private attorney in an amount not to exceed the maximum fee set forth in Section 2712.210.

c) All attorneys participating in this program, whether as staff attorneys or referral panelists for a legal services provider or a private attorney must be licensed by the State of Illinois and must carry or must be insured for at least $100,000 in malpractice insurance.

d) Any legal service provider under this Section must agree to maintain a toll-free number so that claimants and small employers can consult a plan attorney to determine their possible eligibility for the program.

(Source: Amended at 33 Ill. Reg. 9617, effective July 1, 2009)

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Section 2712.210 Maximum Fees Allowed
Where the individual or small employer has failed to present a "colorable claim":

a) The maximum hourly rate for private attorneys paid for under this program shall be $50.

b) The maximum number of billable hours per referee appeal shall be six; the maximum number of billable hours per Board of Review appeal shall also be six. A maximum of ten billable hours shall be allowed per tax case.

(Source: Added at 13 Ill. Reg. 795, effective January 4, 1989)

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PART 2714: INTERSTATE AND FEDERAL COOPERATION
SUBPART A: GENERAL PROVISIONS

Section 2714.10 Definitions

All other terms used in this Part shall have the meaning set forth in Sections 200 through 247 of the Unemployment Insurance Act, unless the context clearly requires otherwise.

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Agent State" means any state in which an individual files a claim for benefits from another state.

"Agency" means any officer, board, commission or other authority charged with the administration of the unemployment insurance law of a participating jurisdiction.

"Benefits" means the compensation payable to an individual, with respect to his or her unemployment, under the unemployment compensation law of any state.

"Interested Jurisdiction" means any participating jurisdiction to which an election submitted under this Part is sent for its approval; and "interested agency" means the agency of a participating jurisdiction.

"Interstate Benefit Payment Plan" shall have the meaning set forth in Section 409(J) of the Act.

"Interstate Claimant" means an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state. However, if such an individual requests to be considered an interstate claimant, the request shall be granted by Illinois as a liable state.

"Jurisdiction" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada or, with respect to the federal government, any federal unemployment insurance program.

"Liable State" means any state against which an individual files, through another state, a claim for benefits.

"Participating Jurisdiction" means a jurisdiction whose administrative agency has subscribed to the Interstate Reciprocal Coverage Arrangement, which implements Section 3304(a)(9)(A) of the Federal Unemployment Tax Act (26 USC 3304(a)(9)(A)) and is authorized by 820 ILCS 405/2700A and B, and whose adherence to the Arrangement has not terminated.

"Services Customarily Performed by an Individual in More Than One Jurisdiction" means services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if the services are required or expected to be performed in more than one jurisdiction under the election.

"State" shall have the meaning set forth in Section 409(J)(3) of the Act.

"Week of Unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits with respect to that week are claimed.

(Source: Amended at 35 Ill. Reg. 6108, effective March 25, 2011)

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SUBPART B: INTERSTATE BENEFIT PAYMENTS

Section 2714.200 Application

This Subpart shall govern the Department of Employment Security in its administrative cooperation with other States subscribing to the Interstate Benefit Payment Plan.

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Section 2714.205 Registration For Work

a) Each interstate claimant shall be registered for work through any public employment office in the agent State when and as required by the law, regulations, rules or procedures of the agent State.

b) Each agent State shall duly report to the liable State whether each interstate claimant meets the registration for work requirements of that agent State, as determined in accordance with the law of the agent State. Illinois, as an agent State, shall determine the registration for work requirements in accordance with the provisions of 56 Ill. Adm. Code 2865.100(a)(1).

(Source: Amended at 43 Ill. Reg. 6379, effective May 14, 2019)

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Section 2714.210 Benefit Rights Of Interstate Claimants

a) If a claimant files a claim against any State, and it is determined by such State that the claimant has available benefit credits from the State, then claims shall be filed only against such State as long as such benefits credits are available. Thereafter, the claimant may file claims against any other State in which there are available benefit credits.

b) For the purposes of this Subpart, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.

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Section 2714.215 Claim for Benefits

Claims for benefits or waiting week credit shall be filed in accordance with the liable state's requirements for interstate claims taking. When Illinois is the liable state, initial interstate claims and continued claims must be filed via the internet or telephone. The laws applicable to intrastate claims and certifications shall apply to interstate claims and weeks when Illinois is the liable state.

(Source: Amended at 35 Ill. Reg. 6108, effective March 25, 2011)

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Section 2714.220 Determination of Claims

The agent state shall have no responsibility and authority in connection with the determination of interstate claims nor to the investigation and reporting of relevant facts.

(Source: Amended at 35 Ill. Reg. 6108, effective March 25, 2011)

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Section 2714.225 Appeal Procedures

a) The agent State shall afford all reasonable cooperation in the taking of evidence and holding of hearings in connection with appealed interstate benefit claims.

b) With respect to the time limits for taking an appeal, an appeal made by an interstate claimant shall be deemed to have been made and communicated to Illinois as a liable State on the date it is received by any officer of the agent State in accordance with the laws of such agent State. Illinois, as an agent State, shall accept any appeal filed by an interstate claimant at any local office in accordance with the provisions of 56 Ill. Adm. Code 2720.200.

c) Except where contrary to the provisions of this Part, the provisions of 56 Ill. Adm. Code 2720 shall be applicable where Illinois is the liable State.

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SUBPART C: EMPLOYER ELECTIONS TO COVER MULTI-STATE WORKERS

Section 2714.300 Application

The Subpart shall govern the Department of Employment Security in its administrative cooperation with other States subscribing to the Interstate Reciprocal Coverage Arrangement, hereinafter referred to as "the Arrangement."

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Section 2714.305 Submission And Approval Of Coverage Elections Under The Interstate Reciprocal Coverage Arrangement

a) Any employing unit may file an election, on a form provided by the Department, to cover under the law of a single participating jurisdiction all of the services performed for the employing unit by any individual who customarily works for the employing unit in more than one participating jurisdiction. That election may be filed, with respect to an individual, with Illinois as the elected jurisdiction if:

1) The employer is otherwise liable in Illinois; and

2) One or more of the following conditions exist:

A) *Any part of the individual's services are performed in Illinois; or*

B) *The individual has his* or her *residence in Illinois; or*

C) *The employing unit maintains a place of business* [820 ILCS 405/2700A] in Illinois and the individual does not reside in or perform services in another jurisdiction where the employer is liable; and

3) The form referenced in subsection (a) is filed as provided in this Subpart; and

4) All other interested jurisdictions have approved of the election as provided in this Subpart; and

5) All affected workers have approved of the election as provided in Section 2714.315.

b) The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election (Illinois will approve if the requirements of Section 2714.305(a) are met):

1) If the agency approves the election, it shall forward a copy of that approval to the agency of each participating jurisdiction specified on the election, under whose unemployment insurance law the individual or individuals in question might, in the absence of the election, be covered. Each interested agency shall approve or disapprove the election as promptly as practicable and shall notify the agency of the elected jurisdiction accordingly.

2) If its law so requires, an interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election. The acquiescence is required in Illinois pursuant to Section 2714.315(a).

c) If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.

d) An election shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. An election thus approved shall take effect, as to any interested agency, only if it has been approved by that agency.

e) If an election is approved only in part, or is disapproved by some agencies, the electing employing unit

may withdraw its election within 10 days after being notified of that action.

(Source: Amended at 43 Ill. Reg. 6379, effective May 14, 2019)

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Section 2714.310 Effective Periods Of Election

a) Commencement:

1) An election approved under this Subpart shall become effective at the beginning of the calendar quarter in which the election is submitted, unless the election as approved specifies the beginning of a different calendar quarter;

2) If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, the earlier date shall be approved as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question and to no others.

b) Termination:

1) The application of an election to an individual under this Subpart shall terminate if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so that they are no longer customarily performed in more than one participating jurisdiction. The termination shall be effective as to the close of the calendar quarter in which notice of such finding is mailed to all parties affected;

2) Except as provided in subsection (b)(1), each election approved shall remain in effect through the close of the calendar year in which the election is initially submitted and approved, and thereafter until the close of the calendar quarter of any subsequent year in which the employing unit gives written notice of its termination to all effected agencies.

3) Whenever an election under this Subpart ceases to apply to any individual under subsections (b)(1) or (b)(2), the electing employing unit shall notify the affected individual accordingly.

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Section 2714.315 Reports And Notices By The Electing Units

a) The electing unit shall promptly notify each individual affected by its approved election and shall furnish the elected agency a copy of the form provided by the Department signed by each such affected individual.

b) Whenever an individual covered by an election under this Subpart is separated from his or her employment, the electing unit shall again inform the individual, immediately, as to the jurisdiction under whose unemployment compensation law his or her services have been covered. If, at the time of separation, the individual is not located in the elected jurisdiction, the electing unit shall notify that individual as to the procedure for filing interstate benefit claims.

c) The electing unit shall immediately report to the elected jurisdiction any change that occurs in the conditions of employment pertinent to its election, such as when an individual's services for the employer cease to be performed in more than one participating jurisdiction or when a change in work assigned to an individual requires him or her to perform services in a new participating jurisdiction outside Illinois.

(Source: Amended at 43 Ill. Reg. 6379, effective May 14, 2019)

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PART 2720 CLAIMS, ADJUDICATION, APPEALS AND HEARINGS
SUBPART A: GENERAL PROVISIONS

Section 2720.1 Definitions

All other terms used in this Part shall have the meaning set forth in definitions, Sections 200 through 247 of the Unemployment Insurance Act [820 ILCS 405], unless the context requires otherwise.

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Adjudicator" means the person authorized to make findings, determinations or recoupment decisions relating to a claimant's eligibility for unemployment insurance benefits.

"Appeal" means the process of Department or judicial review of a finding, determination or decision.

"Appellant" means a party who appeals a Department finding, determination or decision.

"Appellee" means a party to a finding, determination or decision appealed by the appellant.

"Board" means the Board of Review of the Department of Employment Security.

"Call Center" is the modern day equivalent of the local office where claimants and employing units can contact the Department for the resolution of issues involving claims for unemployment insurance benefits.

"Certification" means an individual's attestation to facts regarding his or her eligibility for benefits for a particular period. The Department may provide for certification in person, by telephone, by mail, or through the internet. In many instances, depending upon the context, the terms "certification" and "certification form" and "claim certification" or the like should be considered synonymous.

"Certification Day" means the day of the week designated for a telephone or internet filer to certify for benefits.

"Certification Detail Screen" means the record maintained by the Department of the claimant's responses to questions asked during a completed telephone or internet certification, and the date of the claimant's call or internet access to the Department's system with respect to that completed certification.

"Claims Series" means a week or series of consecutive weeks for which benefit or waiting week credit is granted.

"Claimant" means a person who applies for benefits under the Act.

"Claimant Identification Number" means the unique personal identification number the Department assigns to a claimant. The Department will use the Claimant Identification Number instead of the claimant's Social Security Number on all material it sends to the claimant.

"CMS" means the Illinois Department of Central Management Services.

"Customary Occupation" means the work in which the individual was last engaged or the occupation for which he or she is best qualified by training, experience, and education.

"Decision" means the statement made by a Referee, the Director or the Board of Review with respect to any appeal from a finding or determination relating to rights or obligations under the Act, or a statement by an Adjudicator that an employing unit's protest is insufficient.

"Department" means the Illinois Department of Employment Security.

"Determination" means *an Adjudicator's statement of whether or not a claimant is eligible for benefits or waiting week credit, and the dollar amount of such benefits for each week with respect to which a claim is made* [820 ILCS 405/702].

"Director's Representative" means an employee of the Department designated by the Director of Employment Security to conduct hearings and to recommend decisions to the Director.

"Electronic Data Transmission" is a means by which the Director provides an electronic transfer of the Notice of Claim to Last Employing Unit and Last Employer or other Interested Party to the data center of the Illinois Department of Central Management Services where the transmission can be retrieved by the employing unit (see Section 2720.7).

"Employing Unit" shall have the meaning ascribed in Section 204 of the Act.

"Filing Date" means the date a document was mailed to or received by the Department, whichever is earlier.

"Finding" means *a statement by an Adjudicator of the amount of wages for insured work paid to a claimant during each quarter in the claimant's base period by each employer* [820 ILCS 405/701].

"Full-time Work" is the number of hours a class of workers would customarily work if the employing unit had all the work it could handle without working overtime. Except when the contrary is provided by a collective bargaining agreement or company policy, full-time work is customarily 40 hours per week. For example, 37.5 hours per week is full-time work for Illinois State employees because it is so provided by State personnel policy.

"Initial Claim" means an application for benefits that, meeting all monetary eligibility requirements, commences a claim series.

"Internet Filer" means a claimant who uses the internet to certify.

"Local Office" means the office of the Department servicing claimants who live in a specific geographical area.

"Mail Filer" means a claimant who, although he or she may use the telephone or internet, is permitted to certify by mail.

"Monetary Eligibility" means a claimant's eligibility for a weekly benefit amount of unemployment insurance and the amount of dependency allowance, if any, based on the amount of qualifying wages

paid.

"Nonmonetary Eligibility" means that the claimant has established monetary eligibility and has not been found ineligible or subject to disqualification under the Act from receiving unemployment insurance benefits.

"Part-time Work" means *services not* normally *required for the customary schedule of full-time hours or days prevailing in the establishment* in which the services are performed, or services performed by a person who, owing to his or her personal circumstances or the nature of the work he or she is qualified to perform, *does not customarily work the schedule of full-time hours or days prevailing in the establishment in which he* or she *is employed* [820 ILCS 405/407]. Generally, part-time work will be less than 40 hours per week except when company policy or a collective bargaining agreement provides for a lesser number of hours per week as full-time work. In these cases, part-time work shall be work less than the number of full-time hours set by the collective bargaining agreement or company policy.

"Part-total Employment" means part-time work with an employing unit other than one's regular employing unit.

> EXAMPLE: The claimant is laid off by Company A, his or her regular employing unit, as defined in this Section, and accepts temporary, part-time work with Company B, an employing unit other than his or her regular employing unit. The part-time work with Company B constitutes "part-total employment".

"Partial Employment" means part-time work with one's regular employing unit.

"Party" means, with respect to issues of nonmonetary eligibility, the claimant and any employing unit that files a timely and sufficient protest pursuant to Section 2720.130. Only a party under Section 702 of the Act may appeal a nonmonetary determination or decision of the Department regarding eligibility for benefits. With respect to findings under Section 701 of the Act, "party" means the claimant and any employer whose base period wages are in question. With respect to the issues of sufficiency and timeliness of a protest pursuant to Section 2720.130, "party" means only the employing unit that files the protest.

"Personal Identification Number" or "PIN" means a number that enables the claimant to access the Telephone Certification System. Valid use of a PIN serves as the claimant's signature.

"Protest" means the Department form Employer Notice of Possible Ineligibility, or a letter in lieu thereof, that alleges the claimant is not entitled to unemployment insurance benefits.

"Referee" means the administrative law judge assigned to conduct hearings on appealed Adjudicator findings, determinations or recoupment decisions and to make decisions on the matters appealed.

"Regular Employing Unit" is either the employing unit for which an individual expects to continue working and to work full time if business warrants it, or any employing unit for which the individual worked full time for 9 consecutive weeks during the preceding 52 weeks.

"Service Area" means a geographical area served by a local office.

"Services" means not only work actually performed, but the entire employer-employee relationship. Any attachment to an employing unit for which wages are payable constitutes a service for that employing unit.

"Telephone Certification System" or "TCS" means a system implemented by the Department that enables a claimant to certify for benefits or obtain information by touch-tone telephone.

"Telephone Filer" means a claimant who has established a PIN and uses the Telephone Certification System to certify.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.3 "Week" In Relation To "Benefit Year"
A week shall be deemed to be within the benefit year which includes the ending date of such week.

Example: The individual's benefit year ends on Monday April 1, 1985. He establishes a new benefit year claim, effective April 2, 1 985. If this individual files a continued claim for the week ending April 6, 1985, that week will be deemed to be in the benefit year beginning April 2, 1985.

(Source: Added at 11 Ill. Reg. 14338, effective August 20, 1987)

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Section 2720.5 Service Of Notices, Decisions, Orders

a) Except as provided in subsections (b) and (e), a notice, decision or order shall be served on every party, either by:

1) Personal service;

2) Mailing in an envelope, sealed and properly addressed to the last known address of the party, with the correct amount of postage prepaid; or

3) If agreed to by the party, posting on a secure website accessible to the person or entity and sending notice of the posting to the last known e-mail address of the person or entity.

b) When an agreement is made between the Department and the employing unit (or its authorized agent) and the necessary identifying information is available, the Notice of Claim to Last Employing Unit and Last Employer or other Interested Party shall be sent to the employing unit (or its authorized agent) by means of an electronic data transmission rather than by mailing a document to the employing unit.

c) A person may designate an agent to receive his or her notices and decisions by filing the name and address of the agent with the Department. In these cases, notice to the agent so designated is notice to the person. A person's designation of the agent shall remain in effect until the Department receives a notice that the agency relationship no longer exists.

d) Notwithstanding the appointment of an agent in accordance with subsection (c), the Notice of Claim to Last Employing Unit and Last Employer or other Interested Party (see Section 2720.130) shall be sent to the employing unit identified by the claimant at the time he or she files his or her claim for benefits.

e) CARES Act

1) Notwithstanding any other provision of this Part, for notice of any document or correspondence related to the federal Pandemic Unemployment Assistance (PUA) program established by section 2102 of the CARES Act (Public Law 116-136), as amended, the Department will serve each notice on the claimant in lieu of mailing a paper copy through the U.S. Mail by:

A) posting an electronic version of the notice in the claimant's account; and

B) sending an email to the email address that has been provided on the account.

2) If the claimant either fails to provide his/her email address or requests to receive notices only through the U.S. mail, the Department will serve the notice on the claimant through U.S. Mail sent to the claimant's last known address.

3) Emails to the claimant will notify him or her that a notice has been posted to the account and will not contain any Personal Identifying Information (PII) and may not be responded to by email.

(Source: Amended at 44 Ill. Reg. 14672, effective August 27, 2020)

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Section 2720.7 Application for Electronic Data Transmission

a) In lieu of receiving its Notice of Claim to Last Employing Unit and Last Employer or other Interested Party as a paper document sent through the U.S. Postal Service, an employing unit (or its authorized agent) may apply to have the document sent to it through electronic data transmission.

b) The Director shall approve the application if the employing unit (or its authorized agent) agrees to:

1) At its own expense, on a daily basis, retrieve its electronically transmitted data from the data center of CMS, designated by the Director;

2) Accept the date shown on the Department's records as conclusive evidence of the date that the electronically transmitted data was sent to the data center;

3) Demonstrate to the Director that the volume of claims filed against it justifies the cost to the Department of putting the employing unit on the electronic data transmission system.

c) The Director must also find that the employing unit's (or its authorized agent's) electronic data processing equipment is compatible with that used by the Director.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.10 Computation of Time

a) The calendar day on which any notice, decision or order is mailed or electronically transmitted by the Department shall be excluded in computing time.

b) The calendar day on which notice is due from a party or from an employing unit that is seeking to become a party (see Section 2720.130(a)) or action is required by a party or by an employing unit that is seeking to become a party shall be included in the computation of time.

c) If the last day a document may be filed by a party or by an employing unit that is seeking to become a party is a day on which the Department facility is closed, the due date is extended to the end of the next day the facility is open.

d) The date on the document shall be rebuttable evidence that it was mailed on that date; a postmark placed on the envelope by the U.S. Postal Service shall be conclusive evidence of the date of mailing; when a Notice of Claim to Last Employing Unit and Last Employer or other Interested Party is electronically transmitted to an employing unit (or its authorized agent), the date of transmission shown on the Department's records shall be conclusive evidence of the date of service of the Notice.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.11 Methods of Payment

a) For purposes of this Section, "benefits" includes payments to a claimant pursuant to the Act; trade readjustment allowances and alternative trade adjustment assistance payable pursuant to the Trade Act of 1974, as amended (19 U.S.C. 2101 et seq.); disaster unemployment assistance payable pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.); and any other payments the Department may make with respect to unemployment.

b) Except as otherwise provided in subsections (c) and (d), the Department will pay benefits to a claimant by crediting the benefits to a financial institution account that the Department will establish for the claimant and against which the claimant may electronically draw funds through the use of a debit card. The issuance of a debit card pursuant to this Section does not entitle a claimant to draw funds unless:

1) the claimant has activated the card in accordance with the instructions of the financial institution with which the account was established; and

2) the account has a positive balance. The claimant's use of a card pursuant to this Section shall be subject to the terms of the cardholder agreement provided by the financial institution with which the claimant's account has been established. The Department may make adjustments to an account established pursuant to this Section when necessary to correct credit or debit entries made in error.

c) Notwithstanding subsection (b), the Department will pay benefits to a claimant by direct deposit into a financial institution account designated by the claimant if the designation is in effect at the time the benefit payment is processed. A designation made pursuant to this subsection shall be made on a Direct Deposit Authorization Form provided by the Department and shall subject the claimant to the terms and conditions set forth on the form. The Department may make adjustments to an account designated pursuant to this Section when necessary to correct credit or debit entries made in error.

d) Notwithstanding subsection (b), if the financial institution contracted by the Department to make benefit payments to claimants does not issue debit cards, then the payment of benefits will be by way of direct deposit under subsection (c) (which is the preferred method of payment of benefits) or else by issuance of paper checks to claimants. If a claimant had been receiving benefit payments by way of a debit card issued by a financial institution that is no longer the financial institution contracted with the Department to make benefit payments and if that claimant has not notified the Department of an election as to how to receive benefit payments, then benefit payments will be made to that claimant by way of paper checks.

(Source: Amended at 46 Ill. Reg. 5664, effective March 24, 2022)

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Section 2720.15 Disqualification Of Adjudicator, Referee, Or Board Of Review

a) No Adjudicator or Referee or member of the Board of Review shall participate in any manner in any investigation or proceeding under the Act if he has a financial or other direct personal interest in the outcome of the proceeding or investigation. Personal interest includes family, social or professional relationships, or general bias or prejudice which would tend to affect the ability of the Adjudicator, Referee or Board member to remain fair and impartial.

b) A party seeking disqualification must file a written request to disqualify with the person whose disqualification is sought prior to the commencement of the investigation or proceeding. The request to disqualify must contain specific facts which indicate a financial or other direct personal interest in the outcome of the proceeding or investigation.

c) The person whose disqualification is sought will issue his decision on the request prior to the investigation or proceeding. If the request is denied, the reasons for the denial must be set forth in writing and the Adjudicator, Referee or Board of Review will proceed with the investigation or proceeding. The request and the reasons for the denial will be part of the record in any appeal.

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Section 2720.20 Attorney Representation of Claimants

a) Attorneys for claimants must file an Attorney Appearance and Authorization for Representation form signed by the claimant and his or her attorney. This form must be filed with the Department prior to a hearing before an Adjudicator or Referee, or prior to the decision of an Adjudicator, Referee, or Board of Review, whichever occurs first after the attorney begins his or her representation of the claimant.

b) Absent prior approval by the Board of Review under subsection (c), an attorney representing a claimant may not charge or receive more than:

1) 15% of the amount of the weekly benefits in a claim series received by the claimant after the claimant hires the attorney; or

2) $150 per hour, whichever is greater.

c) If an attorney believes that the fee arrived at pursuant to subsection (b) is inadequate, the attorney may file a request with the Board of Review setting forth the facts supporting the attorney's claim for additional fees. The requests shall include the attorney's certification that the claimant was served with a copy of the request. The Board of Review shall grant or deny the request in whole or in part based on whether the complexity of the case, the result obtained, the expertise required and the time expended in rendering legal services warrant a fee in excess of that allowable under subsection (b).

d) A claimant wishing to comment on or object to a request for additional fees under subsection (c) shall do so in writing to the Board of Review within 10 days after the request is served on him or her. All decisions regarding requests for additional fees shall articulate the reasons for the grant or denial of the request and shall be final administrative decisions. Nothing in this Section shall be construed as prohibiting an attorney from collecting the sum allowable under subsection (b) prior to the decision of the Board of Review.

e) A claimant or employer may authorize an attorney or his or her designated agent to review the Department file regarding the claimant or employer for the purpose of determining whether to represent the claimant or employer in proceedings before the Department. The authorization shall be in writing and may be delivered to the Department office applicable to the particular claimant's or employer's case. Upon delivery of the authorization to the applicable Department office, the attorney or his or her designated agent may review the file without filing an appearance form or becoming the claimant's or employer's counsel of record.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.25 Form of Papers Filed

a) Each form provided by the Department that specifies the information to be provided shall be completed in full as indicated. Every other document prepared by claimants, parties, or their representatives shall bear the name of the claimant, either the Social Security or Claimant Identification Number of the claimant, the name and address of the employer, the name, address, and telephone number of the person filing the document, and, if a person has received notice of appeal, the docket number of that appeal.

b) The omission of necessary information described in subsection (a) may lead to substantial delay in the review process of the document and could prevent any consideration of the document or its contents. In instances in which information cannot be obtained by other means, the Department shall immediately return the document with a description of the needed information to the person who filed it. If the document with all required information is returned within 10 days after the date the Department mailed it back to the person, the document shall be considered filed on the date the Department originally received it.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.30 Correction of Technical Errors

a) Subject to the provisions of this Section, the Department shall, on its own motion or the motion of a party, correct any technical error in any Finding, Determination or Decision necessary to effectuate the intent of the originating authority by issuing a corrected Finding, Determination or Decision. Production of new evidence shall not be a technical error under the provisions of this Section.

EXAMPLE: The Referee issues a Decision, that states the facts and applicable law. The text of the Decision indicates that benefits will be allowed. However, the conclusion of the Decision states that benefits are denied. Either on its own motion or the motion of a party, the Department shall correct this Decision so that the conclusion follows from the facts and the law as set out in the text of the Decision.

b) Any corrected Decision shall set forth the matter being corrected in a different type font than the original text.

c) No corrected Finding, Determination or Decision shall be issued when:

1) The issue in question has been appealed to a higher authority;

2) More than 13 weeks have passed since the end of the benefit year affected by the finding, or more than a year has passed since the last day of the week for which the Determination was made; or

3) More than 30 days have passed since the date of mailing of the Decision of the Referee or the Board of Review.

d) When the Department denies a motion of a party to issue a corrected Finding, Determination, or Decision, the motion shall be considered an appeal to the original Finding, Determination or Decision to the next higher level of review within the Department. The motion does not stay the period for filing an appeal to the circuit court.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.35 A Claimant's "Last Known Address"

Notwithstanding any provision to the contrary, a claimant's "last known address", as that term is used in the Act, is the last address provided to the Department by the claimant as provided in this Section. The address provided by a claimant on his or her most recent unemployment insurance claim application is the claimant's last known address until the claimant informs the Department of a change of address by telephone or in person at any local office, or through the internet at the Department's website, www.ides.illinois.gov. The telephone number for submitting a change of address can be found on the Department's website. Noting a change of address on an appeal or other correspondence is not sufficient to change one's "last known address".

(Source: Added at 43 Ill. Reg. 1523, effective January 15, 2019)

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Section 2720.40 Eligibility for Pandemic Emergency Unemployment Compensation With a Higher Weekly Benefit Amount

a) With respect to weeks beginning on or after December 27, 2020, an individual who is otherwise eligible to receive Pandemic Emergency Unemployment Compensation (PEUC) pursuant to Section 206(c)(1) of the federal Continued Assistance Act (PL 116-260) but for the federal requirement that such individual must have first exhausted the individual's entitlement to "regular" benefits (not including Extended Benefits) under the Act or the Unemployment Insurance Act of another state, shall continue to receive PEUC benefits in lieu of payment of regular benefits on a subsequent benefit year if:

1) the individual has remaining entitlement to PEUC benefits for a benefit year;

2) the individual's weekly benefit amount (not including any dependent allowance) for a subsequent, new benefit year is at least $25 less than the weekly benefit amount (not including any dependent allowance) that the individual is eligible to receive in PEUC; and

3) the benefit year on which the individual's PEUC is based expired after December 27, 2020.

Example: The individual exhausts his entitlement to regular benefits on December 26, 2020 and files for PEUC, effective December 27, 2020 and is eligible for a PEUC weekly benefit amount of $450 per week. His first benefit year ends on January 4, 2021. He files a subsequent benefit year claim, effective the week beginning January 3, 2021. His weekly benefit amount on the new claim is $51 per week. This individual will remain on PEUC until he exhausts his PEUC benefits or until the program ends because his weekly benefit amount on the new benefit year claim is at least $25 less than the weekly benefit amount that he is eligible to receive in PEUC and the benefit year on his prior claim expired after December 27, 2020.

b) Pursuant to the federal flexibility and option provided for payments of PEUC benefits in the federal Continued Assistance Act (PL 116-260), whenever subsection (a) above applies, the new benefit year will be established but payment on such claim will be deferred until the individual exhausts his/her prior PEUC entitlement or it is otherwise no longer available.

c) Such subsequent payments for regular benefits on the new benefit year shall not be made for weeks with respect to which the individual has been or will be paid PEUC.

Example: The individual in the previous example will be paid PEUC until he exhausts his PEUC benefits or the program ends. If eligible, he will then be paid regular benefits for any subsequent weeks remaining in the subsequent benefit year at the weekly benefit amount applicable for the subsequent benefit year.

(Source: Added at 45 Ill. Reg. 7134, effective May 27, 2021)

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SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section 2720.100 Filing a Claim

a) Each employer shall deliver the What Every Worker Should Know About Unemployment Insurance form to each worker separated from employment for an expected duration of 7 or more days. The form shall be delivered to the worker at the time of separation or, if delivery is impracticable, it shall be mailed, within 5 days after the date of the separation, to the worker's last known address. The forms shall be available for downloading from the Department's website. Every employer subject to the provisions of the Unemployment Insurance Act (including every employing unit that has elected, with the approval of the Director, to become an employer subject to the Act) shall post and maintain the notices as may be furnished by the Director. These printed notices shall be posted in conspicuous places in all of the establishments of the employer and shall be easily accessible for examination by the worker. These notices can also be downloaded from the Department's website.

b) Unless a claimant is otherwise instructed by the Department and except as otherwise provided in subsection (e), an initial claim for unemployment insurance benefits may be filed in person at any local office or over the telephone or on the internet at the Department's website. Subject to Section 2720.25, when filing a claim, the claimant, when requested, shall provide the following to the local office:

1) A valid Social Security card or other evidence of his or her Social Security number, such as a W-2 form;

2) Any other form of positive identification such as a driver's license, state photo ID card or payroll check stub showing his or her name, address and date of birth;

3) For each employing unit for whom the claimant worked during the past 2 years:

A) The employing unit's name and address;

B) Dates of service;

C) Reasons for the claimant's separation:

i) If the employing unit is the federal government, Standard Form 8 and Personnel Action Form 50, or any other documents, such as a Form W-2 or check stub, that show he or she has worked for the federal government; or

ii) If the employing unit is the military, Separation Form DD-214;

4) The Social Security number, name and birthdate of each of the claimant's dependent children;

5) Social Security number, if any, of the claimant's spouse and information about the spouse's employment during the last 2 years if the claimant is claiming the spouse as a dependent;

6) Information about other income, such as pensions, workers' compensation, payment for services, irrespective of whether the claimant regards the services as employment, or other unemployment

insurance benefits that the claimant has received or will receive after the termination of his or her employment.

c) The Department will accept and process any claim filed. When the claimant files his or her claim, the claimant will be informed of the requirements for receiving unemployment insurance benefits, including the requirement that the claimant be able to work, available for work and actively seeking work.

d) Within a reasonable time after the claimant files his or her claim (customarily within 7 days), the claimant will be provided with a finding showing whether he or she has monetary eligibility and, if so, the amount of benefits.

e) The Department shall require a claimant to file in person at a local office if there is a significant discrepancy between information that the claimant provides while attempting to file a claim via the internet and information contained in Department records or other government records the Department may utilize.

EXAMPLE: An individual named Smith attempts to file an unemployment insurance claim via the internet and, as part of the internet claims process, enters his Social Security number. However, Department records indicate a previous claim was filed by someone other than Smith, using the same Social Security number that Smith has provided. Smith will have to file his claim in person in a local office to clear up the discrepancy.

f) Once a claimant establishes a "valid" claim (one on which the claimant is monetarily eligible for benefits), that claim cannot be withdrawn. The local office is under no obligation to advise an individual when to file his or her claim so as to qualify for the optimum benefit amount.

EXAMPLE: An individual files a valid claim effective June 6, 2010. He later learns that, if he had waited until after July 1, 2010 to file his claim, he would have been entitled to a higher weekly benefit amount. The individual cannot withdraw the claim that he established effective June 6 to obtain a higher weekly benefit amount.

(Source: Amended at 43 Ill. Reg. 1523, effective January 15, 2019)

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Section 2720.101 Filing, Registering and Reporting by Mail Under Special Circumstances

a) The application of this Section is limited to individuals who fall within the following general categories who have no access to a telephone or the internet and who meet the requirements set forth in subsection (c):

1) Persons residing in any area or community where no transportation is readily or cheaply available, where no local office exists and where itinerant service is not furnished;

2) Persons working less than full time and residing in any area or community where itinerant service is furnished but who are employed at the time itinerant service is available to them;

3) Persons in the armed forces of the United States;

4) Persons whose physical condition prevents filing, registering and reporting in person;

5) Persons in full time employment under circumstances in which that reporting, registering or filing in person would be inconsistent with the purposes of the Act;

6) Persons claiming benefits with respect to a week of partial employment, defined as a calendar week of less than full time work with respect to which wages payable to an individual are less than his or her weekly benefit amount and are earned from his or her regular employing unit.

b) Except when otherwise specified in Rules by the Director, the requirements of Section 500(A) of the Act, with respect to the persons described in subsection (a), are waived.

c) General Provisions

1) Notwithstanding the provisions of any other Section of 56 Ill. Adm. Code: Chapter IV, any unemployed individual in any of the categories of subsection (a) shall, under those circumstances and subject to those conditions set forth in this Section, be permitted to file a claim for benefits by mail and register for work mail. The permission shall be granted only in cases when all of the following circumstances and conditions exist:

A) A request by the individual or his or her authorized agent orally or in writing has been made;

B) The individual has furnished such information as the Claims Adjudicator may require to determine the propriety of the request;

C) The Claims Adjudicator has found that failure to grant permission would be inconsistent with the purposes of the Act.

2) The Claims Adjudicator shall have the right to withdraw permission with respect to any week if he or she finds that reporting in person would not be inconsistent with the purposes of the Act.

d) Effects of Filing by Mail

1) Filing, registering and reporting by mail in accordance with the provisions of this Section shall have

the same effect as filing, registering, and reporting in person at an unemployment office.

2) When permission to file by mail has been granted, the date of the request for permission (as evidenced by the postmark if the request is by mail) shall be considered as the date of claim; provided, however, that backdating for good cause shall be granted to the same extent that it is granted to persons who file claims in person. (See Sections 2720.105(b) and 2720.120.)

3) Except with respect to the necessity for appearing in person at an unemployment office, all provisions of 56 Ill. Adm. Code: Chapter IV, applicable to filing, registering, and reporting in person shall be applicable to filing, registering, and reporting by mail in accordance with this Section.

4) The Department may, when accepting mail filings, conduct interviews with the applicants by telephone or in person to review the written submissions.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.105 Time for Filing an Initial Claim for Benefits

a) An initial claim for benefits should be filed no later than the end of the first week in which the claimant is separated from work. If it is filed later than the week the claimant became separated from work and backdating is not requested, the claim shall begin in the week in which it was filed.

b) If an initial claim is filed later than the end of the first week after the separation, but less than one year thereafter, at the claimant's request the Department will backdate the claim to the appropriate date and determine eligibility for that period if:

1) the claimant shows:

A) The individual's unawareness of his or her rights under the Act;

B) Failure of either the employing unit or the Department to discharge its responsibilities or obligations under the Act or the rules;

C) Any act of any employing unit in coercing, warning or instructing the individual not to pursue his or her benefit rights; or

D) Other circumstances beyond the claimant's control; and

2) The claimant shows he or she filed the claim within 14 days after the reasons for the failure to file no longer existed.

c) A claim with respect to a single week of total or part-total unemployment immediately preceded by a week of partial employment, shall be dated as of the first day of the week of total or part-total unemployment, if the claim is filed within the time limits for filing the claim with respect to the week of partial unemployment (see Section 2720.106).

d) If a claim is filed by any person who is not unemployed at the time of filing, the claim shall be dated as of the first day of the next following week for which the individual is unemployed. It shall be the obligation of the individual to inform the Department when he or she does become unemployed.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.106 Dating of Claims for Weeks of Partial Unemployment

a) An individual who files a claim for a week of partial unemployment shall present valid evidence for the week, if the evidence has been furnished to him or her by the employing unit.

1) The failure of the individual to present valid evidence shall not be a ground for denial of benefits or waiting period credit with respect to the week.

2) If an individual fails to present valid evidence for the week, and it is not otherwise available, the Department shall request the employing unit to furnish evidence in accordance with the provisions of Section 2720.107.

b) A claim for a week of partial unemployment shall be dated as of the first day of that week if the individual files the claim within five weeks after the end of the calendar week in which he or she received valid evidence for the week of partial unemployment. A claim with respect to a week of partial unemployment may be filed by mail if the individual has previously filed a valid claim or if the individual had previously filed an invalid claim but the issue is under appeal for the current benefit year.

c) A claim for a week of partial unemployment, filed after the end of the period allowed in subsection (b) for good cause such as the inability to file within the five week period due to work schedule, illness or other circumstances beyond the claimant's control, may be dated as of the first day of that week, if it is filed at the first available opportunity, but not later than eight weeks after the end of the five week period.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.107 Employing Unit Reports for Partial Unemployment

a) Valid evidence as used in this Section and Section 2720.106 means a pay stub, pay envelope or voucher for the week showing:

1) The worker's name;

2) His or her Social Security number;

3) The ending date of the calendar week;

4) The wages earned by the worker during the week;

5) The employing unit's name;

6) A statement that the earnings were for a week of less than full time work, due to lack of work;

7) The signature (actual or facsimile) of a person authorized by the employing unit to sign the forms, or other positive identification of the authority supplying the valid evidence; and

8) The date on which the valid evidence was issued.

b) Requirement to Furnish Worker with Valid Evidence

1) Not later than the payday for the period covered by the valid evidence, if so requested by the worker, the employing unit shall deliver the valid evidence to a worker for each calendar week during which the worker worked less than full time because of lack of work and earned less than his or her weekly benefit amount.

2) The employing unit shall deliver to the requesting claimant the valid evidence, whether or not the employing unit has received a Notice of Claim.

c) If the employing unit fails to provide the requested information to the individual, an employing unit shall respond to the Department's request for valid evidence for the individual specified in the request by showing the individual's earnings and whether the individual worked less than full time because of lack of work and earned less than his or her weekly benefit amount in each calendar week covered by the request. The response shall be mailed to the address specified in the request, within 5 business days after receipt of the request. Failure of an employing unit to provide valid evidence when requested will result in the payment of benefits based on the individual's explanation of his or her earnings for the weeks in question.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.108 Alternative "Base Period"

a) Section 237 of the Act provides a definition of the term "base period". That Section also provides that, when an individual does not qualify for the maximum weekly benefit amount provided under Section 401 of the Act because he or she had insufficient wages during his or her base period as a result of being unemployed and when he or she was awarded temporary total disability during the period under any workers' compensation or occupational diseases Act, he or she shall be entitled to have his or her weekly benefit amount computed using an alternative base period, as described in Section 401.

b) For the purpose of determining the applicability of the alternative base period described in Section 237 of the Act, "awarded" temporary total disability shall not be limited to awards made by the Illinois Workers' Compensation Commission or similar agencies in other states but shall include settlements and voluntary payments by employing units or their insurers.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.110 Required Second Visit To Local Office (Repealed)

(Source: Repealed at 17 Ill. Reg. 17937, effective October 4, 1993)

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Section 2720.112 Telephone or Internet Certification

a) Except as provided in subsection (c), each claimant shall be a telephone or internet filer.

b) On his or her certification day, a telephone or internet filer shall call a designated telephone number and enter his or her PIN or log onto the Department's website, as applicable, as directed and respond to the questions concerning his or her claim for the prior two weeks. If a telephone or internet filer misses his or her assigned certification day, he or she may call or certify online on Thursday or Friday of that week, or on his or her assigned day or Thursday or Friday of the next week.

c) A mail filer will be sent a copy of the questions concerning his or her claim for the prior two weeks and shall respond in accordance with the provisions of Section 2720.115(a); provided, a claimant cannot file by mail unless he or she requests to do so and furnishes information the Claims Adjudicator may require to determine:

1) He or she speaks neither English nor Spanish;

2) He or she is hearing impaired; or

3) He or she has no reasonable access to a touch-tone telephone or internet. In determining whether a claimant has reasonable access to a touch-tone telephone or to the internet, consideration shall be given, but not necessarily limited to, the following factors: the claimant's known physical or mental limitations, the claimant's concerns for his or her safety, and the overall level of effort required to access a touch-tone telephone or the internet; an occasional inconvenience or mere preference does not mean a claimant has no reasonable access to a touch-tone telephone or the internet.

A) EXAMPLE: A telephone filer, who has no telephone in his apartment, but has used touch-tone telephones in the lobby of his building and elsewhere in his neighborhood to certify, requests to become a mail filer. His reason is that sometimes he must wait a few minutes for someone to get off the telephone, so he would prefer to be a mail filer. An occasional inconvenience or mere preference does not mean he has no reasonable access to a touch-tone telephone. He cannot be a mail filer.

B) EXAMPLE: An individual who has been a telephone filer fails to certify and more than two weeks have passed since his certification day. This raises a late reporting issue for the weeks under review, to be resolved by applying the provisions of Section 2720.120(b). Irrespective of how that issue is resolved, if it is found that the claimant no longer has reasonable access to a touch-tone telephone, then, for future weeks, the claimant may certify by mail.

d) A mail filer may become a telephone or internet filer by simply using those media.

e) A date shown (or absence of a date) on the Certification Detail Screen shall be rebuttable evidence that a telephone or internet filer certified (or failed to certify) on that date. If a telephone or internet filer attempts to certify more than two weeks after his or her certification day, this will result in a delay in the processing of benefit payments and raise a late reporting issue, to be resolved by the application of Section 2720.120(b).

f) All provisions of this or any other Part that are not inconsistent with the provisions of this Section, shall

remain in effect.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.115 Continuing Eligibility Requirements

a) After the claimant has filed his or her initial claim, the claimant must certify as to his or her continuing eligibility. Even if the claimant has been denied benefits, he or she must continue to certify and maintain his or her work search record, and meet other eligibility requirements of the Act, for each week for which he or she expects payment upon reversal of that denial. The claimant shall certify as a telephone or internet filer pursuant to Section 2720.112 unless he or she qualifies as a mail filer pursuant to Section 2720.112(c). If the claimant is a mail filer, the Department will mail the claimant a form called Claim Certification (BIS-653) every two weeks or will send the claimant a Notice explaining why the Claim Certification was not sent, but only if this is the claimant's first certification following the filing of his or her initial claim or if the claimant had certified for the prior two week period. The claimant must complete the Claim Certification and file it at the local office, either by mail or in person, on the Date To Mail indicated on the form (see Section 2720.120). If the claimant is a mail filer and does not receive a Claim Certification within 20 days after filing his or her initial claim or after he or she received the claimant last Claim Certification, the claimant must notify the local office and obtain a Claim Certification.

b) If at any time the Department has reason to investigate the claimant's continuing eligibility, the Department will so inform the claimant in writing. The claimant must cooperate with the investigation by appearing at the time and place instructed by the Department on the Notice of Claims Adjudicator's Interview, with all information he or she has regarding any question that has been raised. Failure to cooperate will result in a Finding, Determination or Decision being issued without further information from the claimant.

c) A claimant certifying for benefits under this Section as a telephone, internet or mail filer shall maintain a work search record for each week he or she is claiming benefits.

    1) The work search record shall include the names and addresses of the employing units contacted, as well as the names of specific persons contacted, if possible; the dates and methods of the contacts; the type of work sought, including wages and hours requested or desired; and the results of the contacts.

    2) The claimant shall provide his or her work search record to the Department upon the Department's written request. The Department shall only request the claimant's work search record with regard to a week in which: an employing unit makes a sufficient protest regarding the claimant's work search for the week and requests the opportunity to review the claimant's work search record for that week; an employing unit requests to review the record for a week, on the condition that the request is made during that week; or the Department otherwise has information that would provide the basis for a review of the work search or the Department conducts a random work search audit of his or her claim. When the claimant provides a work search record, an employing unit, or the attorney or agent of the employing unit or the claimant, may review the record pursuant to subsection (e). When an employing unit requests to review the record for a week, the Department shall not request the claimant to provide his or her work search record if the primary purpose of the employing unit's request is to harass the claimant.

    3) A claimant's failure to provide his or her work search record as requested may result in a determination or decision being issued that the claimant did not conduct an active work search.

d) Where an employing unit makes a timely and sufficient protest regarding work search pursuant to Section 2720.130, and benefits are allowed, a copy of the Adjudicator's Determination regarding the adequacy of

the work search will be sent to the protesting employing unit (customarily within 20 days after receipt of the protest).

e) If the employing unit or claimant, or the attorney or agent of the employing unit or the claimant, wishes to review or obtain copies of other documents in the file for the purpose of pursuing the employing unit's or claimant's rights under the Act, he or she may do so in the local office, where it shall be made available upon reasonable notice. To review or obtain a copy of a hearing transcript, see Section 2720.320.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.120 Time for Filing Claim Certification for Continued Benefits
Subject to the provisions of Section 2720.112:

a) The completed Claim Certification should be filed on the certification day as indicated on the form UI Finding. Failure to file the completed Claim Certification on the scheduled certification day will result in a delay in the processing of benefit payments.

b) If the Claim Certification is filed more than two weeks late but less than one year late, the Department will process it if the claimant shows:

1) The individual's unawareness of his or her rights under the Act;

2) Failure of either the employing unit or the Department to discharge its responsibilities or obligations under the Act or the rules;

3) Any act of any employing unit in coercing, warning or instructing the individual not to pursue his or her benefit rights; or

4) Other circumstances beyond the individual's control if the claimant shows he or she filed his or her claim within 14 days after the reasons for the failure to file no longer existed.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.125 Work Search Requirements For Regular Unemployment Insurance Benefits (Repealed)

(Source: Repealed at 14 Ill. Reg. 18489, effective November 5, 1990)

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Section 2720.126 Availability For Part Time Work Only (Repealed)

(Source: Repealed at 14 Ill. Reg. 18489, effective November 5, 1990)

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Section 2720.127 Director's Approval Of Training (Repealed)

(Source: Repealed at 14 Ill. Reg. 18489, effective November 5, 1990)

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Section 2720.128 Active Search For Work: Attendance At Training Courses (Repealed)

(Source: Repealed at 14 Ill. Reg. 18489, effective November 5, 1990)

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Section 2720.129 Regular Attendance In Approved Training (Repealed)

(Source: Repealed at 14 Ill. Reg. 18489, effective November 5, 1990)

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Section 2720.130 Employing Unit Protest Of Benefit Payment

a) A protest ("Notice Of Possible Ineligibility" or a letter in lieu of that notice) raises questions of eligibility, entitles an employing unit to receive an Adjudicator's Determination regarding questions of eligibility raised and, if timely and sufficient as set out in this Section, provides party status and appeal rights of the Determination relating to the protest.

1) The employing unit shall file, either by mail or by hand delivery, the protest within 10 calendar days after the date of notice shown on the Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party form (see Section 2720.10 for the computation of time). The protest shall be addressed, if mailed, or hand delivered to the Director at the local office designated on the form received by the employing unit. If the employing unit mails or hand delivers the protest to an address other than the address designated on the form received by the employing unit, timeliness of the notice shall be measured from the date of receipt at the proper address instead of the postmark date or the hand delivery date, as the case may be.

2) The protest should include the names, addresses and telephone numbers of persons having knowledge of the facts and circumstances supporting the allegation whom the employing unit designates for the Department to contact for further information. The protest must meet the sufficiency requirements of subsection (d).

b) Because, during a claim series, acts or circumstances may occur that could result in ineligibility, an employing unit's protest with respect to those acts or circumstances will be deemed timely (irrespective of the 10 day time limit set forth in subsection (a)) and will, if also sufficient, provide party status; except, if the employing unit protests that, under Section 500C of the Act, the individual was not able to work, available for work or actively seeking work, then that part of the employing unit's protest will not be deemed timely and will not provide status for any week prior to the week in which it was received by the Department. Whether or not protest is deemed timely or an employing unit is provided party status, ineligibility is determined from the week in which the acts or circumstances occurred.

1) EXAMPLE: The employing unit from which the individual was separated does not respond within 10 days after the date of mailing of the Notice of Claim to Last Employer, Last Employing Unit or other Interested Party. Later, during the claim series, the employing unit offers the individual suitable work that he refuses without good cause. The employing unit then protests, alleging that the individual should be ineligible under Section 603 of the Act (refusal of work). This protest shall be deemed timely beginning with the week in which the refusal of work occurred.

2) EXAMPLE: During the third week of the claim series, the school district that employed the individual as a teacher during the last academic term offers him a contract to teach again in the next academic term. During the seventh week of the claims series, the school district protests that the individual should be ineligible under Section 612 of the Act. This protest shall be deemed timely as of the date that it is determined that the contract was offered to the individual.

3) EXAMPLE: The individual has been receiving benefits for 14 weeks. In the 15th week, his former employer hears that the individual may have been incapacitated by an injury beginning in week 6 of the claim series. The employer protests that the individual should be ineligible for benefits under Section 500C of the Act beginning with week 6 of the claim series. While the Department will investigate this individual's eligibility for benefits beginning with week 6, the employer will only be

a party to the determination of eligibility beginning with the week in which the employer notifies the Department of its allegation of possible ineligibility.

c) When an employer alleges that an individual who was initially an unemployed individual but was later not unemployed under Section 239 of the Act because the individual returned to work for the employer and continued to claim benefits, a protest shall be considered timely if filed within 45 days after the date the Department mails the employer a Statement of Benefit Charges (BEN-118) that includes a period in which the employer alleges that the individual claimed benefits while he was employed by the employer.

d) As long as the employing unit gives a reason or reasons for the allegation and the reason is directly related to the issue raised and is not a general conclusion of law, the allegation shall be considered sufficient. A protest under this Section is sufficient only if limited to one claimant, except as otherwise provided in subsection (d)(3), and only if it:

1) Alleges on the protest that the claimant is not eligible for benefits or waiting week credit by providing material reasons or facts in support of the allegation, other than a conclusion of law, which would support the claimant being held ineligible for benefits; or

A) EXAMPLE: Sufficient – Employing Unit's Protest Alleges:

i) The claimant is not able to and available for work because she is in school.

ii) The claimant is not able to and available for work because he has no child care during working hours.

iii) The claimant is not able to and available for work because he has removed himself to an area of substantially less favorable work opportunities.

iv) The claimant is not able to and available for work because she is seeking part-time work.

v) The claimant is not able to and available for work because he is in an occupation for which there is no demand in the labor market area.

B) EXAMPLE: Not Sufficient – Employing Unit's Protest Alleges:

i) The claimant is not actively seeking work (general conclusion of law).

ii) The claimant is not available for work (no reason given for allegation).

iii) The claimant is not able to and available for work because he was discharged from his last job (reason given is not related to the issue raised);

2) Alleges that the claimant is not eligible for benefits because, in connection with any separation or layoff, the claimant has been or will be paid vacation pay, vacation pay allowance, or pay in lieu of vacation, in which event, the employing unit must designate, on the protest, within 10 calendar days after notification of the filing of the claim, or within 10 calendar days after the date the vacation pay is paid or payable, the period to which that pay is allocated. It is not necessary that a protest be filed for each individual vacation payment. No designation is necessary for disqualification purposes for

vacation payments made during an announced period of shutdown for the purpose of inventory, vacation, or both; or

3) Alleges that the claimant is not eligible for benefits because he is unemployed due to his involvement in a labor dispute, and the employing unit, within 5 days after the start of the period of the work stoppage due to a labor dispute, provides the Department with the name and Social Security number of each worker involved in the dispute. This list of workers shall be filed with the Department's Labor Dispute section. Upon receipt of the list, the Department will mail a Labor Dispute Questionnaire to the employing unit and the union or representative of the employees involved in the labor dispute. The employing unit, union, and/or employee representative must respond to the questionnaire within 10 days. If the questionnaire is not received within 10 days, the Department will issue a decision based on the information contained in the record at that time. The filing of the list will constitute an allegation of possible ineligibility under the labor dispute provision (Section 604 of the Act) only and shall not be construed as an allegation of possible ineligibility under any other provisions of the Act.

e) In instances in which the Department decides that the protest has not met the sufficiency requirements of subsection (d)(1), the Department shall immediately provide the employing unit with a notice, including a description of the needed information. If the protest with all required information is refiled within 10 days after the date the Department mailed the notice to the employing unit, the protest shall be considered filed on the date the Department originally received it. In no event shall the employing unit have the right to correct an insufficient protest regarding the same claim more than once. In the event that a protest does not meet the sufficiency requirements of subsection (d)(1) after being refiled pursuant to this subsection, the Adjudicator shall determine the protest to be insufficient. A Decision that a protest is insufficient may be appealed pursuant to Section 2720.200.

f) Academic Personnel

1) For any weeks beginning March 15, 2020 and ending January 2, 2021, an educational institution or educational service agency, collectively referred to as an "academic employer", will be considered to have filed a timely and sufficient protest and to have established employer party status as to allegations of claimants' ineligibility under Section 612 of the Act, provided the academic employer files with the Department an "Academic Personnel Reporting Form for Professional Employees – June 2020", within three weeks after receipt of the form, that alleges the individuals named on the form:

A) performed services for it in an instructional, research, or principal administrative capacity during the first of those academic years or terms or prior to the vacation period or holiday recess;

B) were employed by the academic employer as of March 1, 2020; and

C) have a contract or a reasonable assurance, as defined in 56 Ill. Adm. Code 2915.1, that the individuals listed on the form will perform services in the second of those academic years or terms, or at the conclusion of the vacation period or holiday recess.

2) The Academic Personnel Reporting Form for Professional Employees – June 2020 shall be filed by submitting it to DES.AcademicPersonnel@Illinois.gov through the Illinois File Transfer Utility Tool at https://filet.illinois.gov/filet/pimupload.asp. The filing of the Academic Personnel Reporting Form for Professional Employees – June 2020 will constitute the academic employer's allegation of

ineligibility under the academic personnel provision (Section 612 of the Act) as to only the individuals whose information appears on the form and shall not be construed as an allegation of possible ineligibility under any other provisions of the Act.

(Source: Amended at 44 Ill. Reg. 17647, effective October 23, 2020)

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Section 2720.132 Required Notice by an Employer of Separation for Alleged Felony or Theft Connected with the Work

a) Whenever an employer discharges an individual for an alleged felony or theft in connection with his or her work, the employer shall notify the Department of the separation.

b) The notification required by subsection (a) shall include the name of the individual discharged, his or her social security number, the name of the employer, its mailing address, its Illinois Employer Account Number, and the date of separation.

c) If the notification required by subsection (a) meets the sufficiency requirements of Section 602B of the Act and is mailed or faxed to the Department within at least 10 days after the date that the individual files his or her next claim for benefits, then the employer shall be a party to the Department's determination of eligibility under Section 602B of the Act.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.135 Adjudicator Investigation

a) If any question arises concerning the claimant's monetary or nonmonetary eligibility, the claimant will be notified in writing. The Adjudicator will inform the claimant of the precise factual question relating to his eligibility, the Sections of the law involved, and the source of the information that raised the question.

b) An Adjudicator will investigate all allegations in the employer's protest. He or she will contact the employer, claimant and, if possible, any other source that either party identifies to resolve the protest, provided that the Department will not contact witnesses identified by the claimant or the employer without notifying the claimant or the employer's designated contact person (see Section 2720.130(a)(2)), as appropriate. The claimant will be given an opportunity to provide the Adjudicator with any statements or other evidence to refute or explain the allegations and establish his or her rights to benefits.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.140 Adjudicator Determination

a) The Adjudicator's Determination will set forth, in writing, its factual and legal basis. The Department will mail a copy of the Adjudicator's Determination to all parties (see Section 2720.1). For an employing unit that is not entitled to party status under Section 702 of the Act, the Department will mail to the nonparty employing unit:

1) A copy of the Determination regarding the claimant's eligibility for benefits as information only if the employing unit's protest is untimely pursuant to Section 2720.130, or if the claimant is disqualified under a separation issue (Sections 601, 602 and 603 of the Act) and the employing unit from which the separation occurred filed no protest;

2) A copy of the Determination that the employing unit's protest is insufficient pursuant to Section 2720.130, from which the employing unit may make an appeal, after affording the employing unit an opportunity to submit a sufficient protest in accordance with Section 2720.130.

b) When the employing unit files a sufficient protest alleging that the claimant is not able to perform work, unavailable to accept work, or not actively seeking work, the Adjudicator's Determination shall be limited to the claim period set forth in the protest (or the date of the initial claim if the protest is timely pursuant to Section 2720.130) and not beyond the last week for which the claimant has certified for benefits at the time of the Adjudicator's Determination.

1) If the Adjudicator determines that the claimant is ineligible, the Adjudicator will send his or her written Determination to the claimant and protesting employing unit and continue to investigate the claimant's ability, availability, or work search, as appropriate, for each week for which the claimant files a Claim Certification. The claimant will not receive benefits for any subsequent weeks until and unless an Adjudicator determines that the condition alleged to cause the disqualification no longer exists or that the claimant is actively seeking work, as appropriate; in that case, the Adjudicator's written Determination that the claimant is eligible from a specific date will be sent to the claimant and the protesting employing unit.

2) Once an Adjudicator determines the claimant eligible, the Adjudicator will provide the employing unit with no further Determinations on the claimant's ability, availability, or work search for a subsequent period unless the employer files a sufficient protest for a subsequent period (see Section 2720.130) or the Adjudicator has other reason to investigate the claimant's ability, availability, or work search.

3) If the determination of eligibility is appealed, reversed and benefits denied, parties to the appeal will receive a subsequent determination setting forth the date on which the claimant became able to work, available for work, or began actively seeking work, as appropriate.

c) When an employing unit files an untimely but otherwise sufficient protest alleging that the claimant was discharged for committing a felony or theft in connection with his or her work, the Adjudicator will make and issue a Determination under Section 602A of the Act (discharge for misconduct), though the employing unit shall not be a party to that Determination.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.145 Payment of Unemployment Insurance Benefits for Initial Claims

a) If no question is raised concerning a claimant's eligibility to receive benefits, the Department will begin promptly to pay benefits to the claimant following the claimant's first certification. If the claimant does not receive his or her benefits within 15 days after the date of his or her first certification form, he or she must contact the local office or call center no later than the Friday of the second week following the week that he or she first certified to prevent further delay in the payment of benefits.

b) If a question is raised concerning claimant's eligibility to receive benefits, the Adjudicator will promptly investigate the matter pursuant to Section 2720.135. (Customarily, the investigation will be completed within 20 days.)

1) If the Adjudicator finds the claimant is eligible for benefits, the claimant will receive benefits. However, the employer may seek reversal of the Adjudicator's determination by appealing that determination (see Section 2720.200). If the claimant is subsequently determined to be ineligible, benefits received may be recouped or recovered.

2) If the Adjudicator finds the claimant is not eligible for benefits, the claimant will not receive benefits. However, the claimant may seek reversal of the Adjudicator's determination by appealing that determination (see Section 2720.200). If the claimant is subsequently determined to be eligible, all benefits due will be paid.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.150 Applying for Unemployment Insurance Benefits Under Extension Programs
From time to time, various unemployment insurance programs that pay benefits beyond 26 weeks, such as Extended Benefits under Section 409 or 409.1 of the Act, or Federal Supplemental Compensation, may be in effect. When such a program becomes effective, the Department will notify the claimant in writing of:

a) the requirements to receive benefits under that program; and

b) where and when to file a claim for benefits under that program.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.155 Non-Resident Application for Benefits

a) A claimant who has worked in Illinois but lives outside Illinois may apply for benefits by filing a claim at the unemployment insurance office in the state or territory in which he or she resides. As soon as the individual becomes unemployed, he or she should report to the nearest unemployment insurance office and follow the procedures as directed by that office.

b) A claimant who has worked in Illinois but lives outside Illinois may, at his or her option, file his or her claim in Illinois.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.160 Reconsidered Findings or Determination

a) Upon the written request of a party or the receipt of new information relating to the original issues, and subject to the time limits set forth in this Section, an adjudicator shall reconsider an original finding or determination.

1) In the case of a finding, an adjudicator shall reconsider his or her finding within 13 weeks after the close of the claimant's benefit year;

2) In the case of a determination that does not involve the issue as to whether or not the claimant misstated his or her earnings for the week, or whether or not the claimant has been paid wages as a result of a back pay award made by any governmental department or pursuant to arbitration proceedings, or as a result of a payment of wages wrongfully withheld by an employing unit, an adjudicator shall reconsider his or her determination within one year after the last day of the week for which the determination was made;

3) In the case of a determination that involves the issue as to whether or not the claimant has been paid wages as a result of a back pay award made by any governmental department or pursuant to arbitration proceedings, or as a result of a payment of wages wrongfully withheld by an employing unit, an adjudicator shall reconsider his or her determination within three years after the last day of the week for which the determination was made;

4) In the case of a determination that involves the issue as to whether the claimant misstated earnings for any week beginning on or after March 15, 2020, an adjudicator shall reconsider his or her determination within five years after the last day of the week for which the determination was made [820 ILCS 405/703];

5) A finding or determination shall not be reconsidered subsequent to the filing of an appeal under Section 2720.200, except when the issue is newly discovered as to whether or not the claimant misstated his or her earnings, or unless the matter is remanded to the adjudicator by a Referee, the Board of Review or a court.

b) A reconsidered finding or determination shall relate only to the issues and period of time set forth in the original finding or determination.

c) The adjudicator shall investigate the original records and facts and document a report of a reconsidered investigation that includes the new information and shall:

1) Affirm the original finding or determination if the new facts are not sufficient to modify or reverse the original finding or determination and, unless otherwise instructed by the party, process an appeal to the Referee on behalf of the requesting party, in accordance with Section 2720.200, in which case the appeal shall be considered an appeal to the original finding or determination; or

2) Modify or reverse the original finding or determination if the new facts require a different result, and issue a reconsidered finding or determination to the parties vacating and replacing the original finding or determination and affording full appeal rights under Section 2720.200 as to the reconsidered finding or determination.

(Source: Amended at 48 Ill. Reg. 9592, effective June 20, 2024) **Back to top**

SUBPART C: APPEALS TO REFEREE

Section 2720.200 Filing of Appeal

a) Any party may appeal an Adjudicator's determination or finding. An appeal shall be filed by digital upload, in person, by mail, or by fax, preferably to the location stated on the determination or finding, or to any local office. No appeal may be filed by email.

b) The appeal must be filed within 30 days after the Adjudicator's determination or finding was mailed or delivered or electronically transmitted to the parties (see Section 2720.10).

c) No special form is necessary to file an appeal to the Referee. The appeal must comply with the following requirements:

1) The appeal must be in writing, dated and signed by the person or entity appealing or the representative of that person or entity; and

2) The appeal must be limited to one claimant and contain the name and either the Social Security Number or Claimant Identification Number of the claimant.

d) An appeal of a labor dispute determination to a Director's Representative under Section 604 of the Act and Section 2720.275 may be filed by any party to a determination or an agent representing all members of the affected class of workers by listing either the Social Security or Claimant Identification Numbers of the employees on the appeal.

e) At the request of any appellant, a Department representative will assist the appellant in filing the appeal.

f) The Department will promptly schedule a hearing before a Referee and, except as provided in Section 2720.201, mail notice of the hearing as provided in Section 2720.205. (Customarily, notice of hearing will be mailed within 15 days after the filing of the appeal.)

(Source: Amended at 49 Ill. Reg. 11127, effective August 20, 2025)

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Section 2720.201 Application For Electronic Data Transmission Of Notice Of Hearing

a) In lieu of receiving its notice of hearing as a paper document sent through the United States mail, an employing unit (or its authorized agent) may apply to have such document sent to it through electronic data transmission.

b) The Director shall approve such application if the employing unit (or its authorized agent) agrees to:

1) At its own expense, on a daily basis, retrieve its electronically transmitted data from the data center of the Illinois Department of Central Management Services, designated by the Director;

2) Accept the date shown on the agency's records as conclusive evidence of the date that the electronically transmitted data was sent to the data center of the Illinois Department of Central Management Services;

3) Demonstrate to the Director that the volume of hearings at which it has party status justifies the cost to the agency of putting the employing unit (or its authorized agent) on the electronic data transmission system.

c) The Director must also find that the employing unit's (or its authorized agent's) electronic data processing equipment is compatible with that used by the Director.

(Source: Added at 18 Ill. Reg. 16340, effective October 24, 1994)

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Section 2720.205 Notice of Hearing

a) Written notice of the time, date and place of the hearing shall be mailed to the parties at least 10 days before the date of the hearing.

b) The notice will identify the parties and the Findings or Determination being appealed and will inform the parties of the issues upon which the appeal is based.

c) In the event that a claimant appeals an Adjudicator's Determination regarding a separation issue (Sections 601, 602 and 603 of the Act), and when the employing unit from which the separation occurred is not a party, the employing unit will receive notice of hearing that it may attend as a nonparty and present such facts and evidence as it may possess.

d) No hearing, or part of a hearing, shall be conducted on an issue to which the parties have not been given notice pursuant to subsections (a) and (b) unless the notice is waived by all parties either in writing or on the record.

e) Unless notice is waived under subsection (d), if, during or after the hearing, the Referee determines that the facts require a Decision under a Section of the Act different from the Section specified in the notice given under subsections (a) and (b), or that the notice does not accurately describe the question at issue, then the Referee shall immediately terminate the hearing, if applicable, issue no Decision on the merits for the Section or questions for which proper notice was not given, and shall either:

1) Remand the unresolved issues back to the Claims Adjudicator for a Finding or Determination on the correct issues if facts or issues are introduced that were not previously presented to the Claims Adjudicator; or

EXAMPLE: The Referee is examining the claimant with respect to the reason for separation from work. During the course of the hearing, the claimant indicates that he may not be able to work. Under the circumstances, the Referee shall remand the case to the Claims Adjudicator for a Determination under Section 500 of the Act.

2) Cause new notices containing the correct issues to be mailed to the parties when the facts remain the same as presented to the Claims Adjudicator but the incorrect issue was identified.

EXAMPLE: Based solely on the testimony of the claimant, the Claims Adjudicator determines that the claimant was discharged from his last job. After hearing testimony from the parties, the Referee decides that the separation was caused by the claimant's voluntary resignation. Here, if the parties refuse to waive notice, the Referee shall cause new notices containing the correct issue to be mailed to the parties.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.207 Untimely Appeals

a) Whenever it shall appear to the Referee that the appeal was not filed in a timely manner as provided in the Act and no issue relating to timeliness is raised in the letter of appeal, the Referee shall issue his or her decision dismissing the appeal without holding a hearing on the matter. The Referee shall expedite the processing of cases to which this subsection applies.

b) If a timely appeal is filed with the Board of Review of a decision issued pursuant to subsection (a), the Board of Review shall immediately remand the matter to the Referee for a hearing on the question of the timeliness of the appeal.

(Source: Added at 33 Ill. Reg. 9623, effective August 1, 2009)

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Section 2720.210 Preparation for the Hearing

a) Each party shall appear at the hearing before the Referee with witnesses or documents it believes to be necessary to establish or refute allegations set forth in the appeal.

b) The Department shall provide to a party requiring a foreign language interpreter, at the Department's expense, an interpreter able and willing to translate verbatim from the witness's language into English and vice versa. The Referee will administer an interpreter's oath to any interpreter.

c) Upon timely request to the Referee assigned to the case, or the Referee's supervisor, prior to the beginning of an in-person hearing, a party may inspect the file during the Department's regular business hours at the office of the Referee assigned to the case. The Department will maintain a written record of the date and name of any person inspecting the file. In the case of a telephone hearing, a file may be inspected at the local office where the claim was filed or at the Department's Chicago central office, whose address is found in 56 Ill. Adm. Code 2712.10, if the request is made at least 2 working days prior to the hearing; when the request is timely made, the Department will provide the party making the request with an opportunity to inspect the file at least 24 hours prior to the hearing.

(Source: Amended at 49 Ill. Reg.11127, effective August 20, 2025)

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Section 2720.215 Format of Hearings

a) Except as otherwise provided in subsection (b), hearings shall be conducted by telephone.

b) A witness or party may appear in-person, upon the Referee's motion, or upon the request of the witness or party for good cause shown, when the request is received by the Referee prior to the date of the hearing. When a referee schedules an in-person appearance on his or her own motion, the witness or party may appear by telephone, upon the witness' or party's request, when the request is received by the Referee prior to the date of the hearing, unless the witness is required to appear in person pursuant to this subsection. A witness or party shall be required to appear in-person if the Referee finds that an in-person appearance is necessary for the furnishing of interpretive services to a party who is hearing or speech impaired, or due to the volume or complexity of the evidence. If the Referee denies or requires the in-person appearance of a witness or party, the reasons for doing so shall be stated on the record.

c) A party appearing by telephone shall submit to the Referee and any opponent any documents that it intends to introduce at the hearing in time to ensure receipt of the documents before the date of the scheduled hearing. The documents may be submitted to the Referee by mail or fax at the address or fax number listed on the Notice of Hearing. Documents may not be submitted to a Referee by e-mail transmission. Documents submitted to a Referee by e-mail transmission will not be considered. If a party is appearing by telephone in a matter that has been remanded by either the Board of Review or the Circuit Court and the opposing party was represented by an attorney before the body that ordered the matter remanded, copies of those documents must be served on the attorney for the opposing party. If the Referee finds that any document introduced or referenced in the course of the hearing was not received, the Referee shall continue the hearing until that document is received or proceed with the hearing with or without the admission of the document. If the Referee proceeds with the scheduled hearing, the reasons for admitting or not admitting the document shall be stated on the record.

d) This Section shall not apply to appeals of decisions relating to the amount of wages found in a claimant's base period; those cases will be governed by 56 Ill. Adm. Code 2725.200.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.220 Ex Parte (One Party Only) Communications

In any contested matter involving more than one party, the Referee shall not communicate, directly or indirectly, in connection with any issue of fact, with any interested person or party except on notice and opportunity for all parties to participate. [5 ILCS 100/10-60] If the Referee receives any such ex parte (with one party only) communication, including any documents, he or she shall inform the other parties of the substance of any such oral communication and provide copies of any such written communication or documents as soon as practicable after the communication. The other party shall be given an opportunity to respond either to any ex parte communication in writing or on the record. The e-mail address listed on a Notice of Hearing shall be used only to request to appear at a hearing in-person in accordance with Section 2720.215(b), provide contact information in advance of the hearing, request a continuance in accordance with Section 2720.240, or request a reopening in accordance with Section 2720.255. If their e-mail address is available, the other party opponent, if any, should be copied on any e-mails sent to the e-mail address listed on the Notice of Hearing. The Department's e-mail system is not secure and so social security numbers must not be included in e-mails to the e-mail address listed on the Hearing Notice (the Claimant ID or docket number should be used instead).

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.225 Subpoenas

a) A party may request the Referee to issue a subpoena to compel the attendance of a witness or the production of documents. The request shall be made either in writing or on the record. The Request for Subpoena shall:

1) Identify the witness or documents sought;

2) State the facts that will be proven by each witness and each document sought.

b) The Referee shall grant or deny the request either on the record or in writing. If the Referee grants the Request for Subpoena, he shall if necessary, reschedule the hearing for a specific date. The Referee shall deny the Request for Subpoena only if he finds that the evidence sought is immaterial, irrelevant or cumulative. If the Referee denies the Request for Subpoena, he shall proceed to conduct the hearing. The specific reasons for the denial shall be part of the record on appeal.

c) If a party, or any person or organization within the control of a party, fails to obey a subpoena of a Referee, the Referee shall treat the evidence required by the subpoena but not produced as establishing the truth of the position of the party who subpoenaed the documents. If a nonparty fails to obey a subpoena, the party seeking enforcement of the subpoena, or its attorney, shall prepare an application to the circuit court of the county in which the hearing is pending requesting enforcement of the subpoena pursuant to Section 1002 of the Act and shall present the application to the Referee. If the Referee is satisfied that the subpoena was properly served and that the application is in proper form, the Referee shall sign the application. The party seeking enforcement of the subpoena, or its attorney, may then file and prosecute the application to the Circuit Court.

d) At the request of the party seeking enforcement of the subpoena to the Circuit Court, all proceedings affected by the subpoena evidence shall be stayed pending judicial resolution of the enforcement issue.

(Source: Amended at 11 Ill. Reg. 14338, effective August 20, 1987)

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Section 2720.227 Depositions

a) The Referee or the Director's Representative if the issue is Section 604 before whom an eligibility issue is pending shall order the taking of the deposition, specifying the subject matter to be covered, of a person other than the appellant, under oral examination or written questions for use as evidence at the hearing, provided:

1) It appears to the Referee that the deposition of the person is necessary for the preservation of relevant testimony because of the substantial possibility it would be unavailable at the time of the hearing (such as when a witness has a scheduled vacation, out of town business trip or job interview set for the date of the hearing); and

2) The request is made on motion by a party who gives notice of the motion to all other parties to the issue.

b) The taking of depositions shall be in accordance with the provisions for taking depositions in civil cases (IL Sup. Ct. Rules 203 through 217), and the order for the taking of a deposition may provide that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

c) Any other parties to the issue shall have the right to confront and cross-examine any witness whose deposition is taken. The other parties may waive these rights in writing, filed with the Referee.

d) Depositions shall be taken in the county of residence or employment of the witness, as specified in Rule 203 of the Illinois Supreme Court, unless the witness waives these rights in writing.

e) No deposition shall be allowed in any proceeding under Section 800 or 801 of the Act, except as provided herein.

f) Failure to obey an order for deposition shall result in the same sanctions as provided in Section 2720.225 for failure to comply with a subpoena.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.230 Consolidation Or Severance Of Proceedings

a) The Referee shall, on his own motion or request of a party, consolidate hearings if he finds that the hearings involve a common question of law or fact, that consolidation will expedite the hearings, and that no right of any party will be prejudiced.

b) Prior to consolidation, all parties shall be given notice of the motion to consolidate in writing or on the record and shall be given an opportunity to be heard on the motion in writing or on the record.

c) The Referee shall sever cases previously consolidated if he finds that the conditions in subsection (a) have not been satisfied.

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Section 2720.235 Withdrawal Of Appeal

The appellant may voluntarily withdraw his appeal by signed written statement filed with the Referee or by oral statement on the record at any time before the Referee's decision is issued. All parties will receive written notice of the withdrawal.

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Section 2720.240 Continuances

a) The Referee to whom the appeal was assigned, or a hearings supervisor if the Referee is not available, shall grant a continuance requested by a party only for "exceptional reasons". The request must be made in person, by telephone, or in writing by mail, fax or e-mail. The request must be received prior to the conclusion of the hearing. A request for continuance received after the conclusion of the hearing will be treated as a request for reopening in accordance with Section 2720.255. "Exceptional reasons" are limited to:

1) Compassionate Grounds:

A) Medical reasons that prevent the individual from appearing if the Referee is provided with proper documentation or proof of those reasons, including but not limited to a previously scheduled medical appointment; or

B) Medical emergency or death in the family;

2) Unforeseen circumstances such as accident, flood, fire, civil disorder, public utility emergency, military necessity, or other insuperable interference;

3) A demand by a party to obtain legal representation or to inspect the case file, provided that it is shown at the time of the request that due diligence was exerted to obtain that representation or to inspect the file;

4) The claimant is employed, is scheduled for an employment interview, or is participating in a training program approved for him or her by the Director under the provisions of Section 500C5 of the Act at the time of the hearing and cannot reasonably appear at the hearing either in person or by telephone;

5) When a party's attorney has a conflict in his or her schedule because he or she has an appointment with a client, a court appearance or comparable matter scheduled for the same time as the hearing before the Referee and the attorney cannot reasonably appear at the hearing before the Referee and cannot reasonably find a substitute counsel;

EXAMPLE: A continuance is requested because a party's attorney has a conflict in his schedule because he has a court appearance scheduled for the same time as the hearing before the Referee. The court appearance is for a routine matter, such as an agreed motion or a status call, which could be handled by another member of the attorney's firm. Such a conflict will not constitute good cause for a continuance. It will be incumbent on the attorney to reschedule his court appearance or obtain substitute counsel to appear in his stead before the Referee.

6) The employer's representative or witness is unable to appear either in person or by telephone due to a plant shutdown for vacation, inventory or holiday that is provided for by a collective bargaining agreement or the employer's custom and the Referee is provided with documentation of that contract agreement or custom;

7) A party is unable to attend the hearing either in person or by telephone due to a conflicting legal or regulatory requirement, including but not limited to jury duty; or

8) When, at the same time as the hearing before the Referee, a party's representative is scheduled to participate in another hearing before a Referee or Director's representative and no other reasonable accommodation can be made, on the condition that the representative notifies the Department of the conflict no later than five working days after issuance of the hearing notice that should have made the conflict patently evident.

b) In the event that a continuance is granted, the hearing will be set for the earliest available time and date, but, absent exceptional reasons, no more than seven days after the scheduled hearing. The Department will inform the parties of the date, time and place of the continued hearing either orally or in writing.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.245 Conduct of Hearing

a) The Referee will control the hearing, will be confined to the factual and/or legal issues on appeal, and will ensure that the parties have a full opportunity to present all evidence and testimony regarding those issues.

b) Following examination of each witness by the Referee, that witness may be questioned and cross-examined by any other party and further questioned by the Referee, if necessary, to ensure clarity and completeness of the issues and of the record. The Referee shall ensure that the parties have full opportunity to present all evidence and testimony regarding the factual and/or legal issues on appeal.

c) If any person becomes abusive or disruptive so that a full and fair hearing cannot be conducted, the Referee shall exclude the person from the hearing. The Referee will then continue the hearing without the participation of the excluded individual and will render a decision based on the evidence in the record.

d) The Director shall prohibit any individual from representing a party in a proceeding under this Part if the Director finds that the individual is or has been guilty of violating the standards in Rule 8.4 of the Illinois Rules of Professional Conduct, Article 8 of the Rules of the Illinois Supreme Court or has intentionally disregarded the provisions of the Act or rules promulgated under the Act, or the written instructions of the Board of Review. The prohibition shall be in writing and shall be applicable for a period not to exceed 120 days from the date the decision is mailed to the party. The individual may appeal the Director's Decision under the Administrative Review Law [735 ILCS 5/Art. III].

e) Unless agreed to by all parties in writing or on the record, no bifurcated (split) hearings shall be held.

EXAMPLE: The appellant appears at the scheduled hearing, and his testimony is taken by the referee; the appellee fails to appear but later requests and is granted a reopened hearing. At the reopened hearing, only the appellee appears. This situation shall not constitute a bifurcated hearing.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.250 Rules of Evidence

a) Technical rules of evidence do not apply to hearings before Referees. Unobjected to hearsay statements may be considered and given their natural probative value. However, the decision of the Referee will be based on the preponderance of the credible, legally competent evidence in the record.

b) Except for evidence or testimony that would be cumulative or irrelevant to the issue or issues on appeal, the Referee will not, on his or her own initiative, refuse to admit evidence or testimony.

EXAMPLE: During a hearing, the claimant testifies to something that is considered hearsay under the rules of evidence. If the employer does not object, the Referee should allow the claimant to continue his or her testimony uninterrupted. The Referee should then question the employer about the claimant's testimony and then weigh the credibility of both sides.

c) The Referee may, but need not, rule on any objection to the introduction of evidence or testimony, and the Referee will ensure that all objections are duly noted and made part of the record. If the Referee sustains an objection to the introduction of evidence, the Referee will allow the proponent to make an offer of proof in the form of a brief explanation of what the evidence or testimony would show. The Referee may require that an offer of proof be presented in a condensed form to avoid needless repetition and undue length of the hearing record. Any evidence excluded by the Referee will, nevertheless, be placed in the record so that the question of its admissibility may be considered by the Board of Review or a reviewing court.

EXAMPLE 1: During a hearing, the claimant testifies to something that would be considered hearsay under the rules of evidence. The employer's attorney objects on the basis of hearsay. At this point, the Referee can either note the objection but allow the claimant to continue with testimony or rule on the admissibility of the claimant's testimony. If the Referee rules on the employer's objection, and finds the testimony inadmissible, the Referee should allow the claimant to explain what the testimony would show to preserve the claimant's right to appeal the issue.

EXAMPLE 2: During a hearing, the employer attempts to introduce a written statement from a witness who is not present. In the statement, the witness writes that that he observed the claimant violate a rule of the employer. The claimant's attorney objects to the introduction of the written statement as hearsay. The Referee decides to sustain the objection and exclude the written statement. At this point, the Referee should mark the written statement as an exhibit, indicate that the exhibit is not in evidence, and place it into the record.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.255 Failure of Party to Appear at the Scheduled Hearing

a) Failure of the appellant to appear at the hearing at the time the hearing is scheduled before the Referee will result in a dismissal of the appeal. If the hearing is scheduled to be conducted by telephone or the appellant has been allowed or required to appear by telephone, failure of the appellant to inform the Referee of the telephone number at which he or she can be reached at that time or to answer the telephone at that number will also result in dismissal of the appeal.

b) Failure of the appellee to appear at the hearing at the time the hearing is scheduled or, if a hearing is scheduled to be conducted by telephone or the appellee has been allowed or required to appear by telephone, failure of the appellee to inform the Referee of the telephone number where he or she can be reached at that time, or to answer the telephone at that number, will cause the Referee to issue a decision based on the evidence introduced by the appellant at the hearing and the evidence in the record.

c) Failure of any witness to appear at the hearing at the time that the hearing is scheduled or, if the hearing is scheduled to be conducted by telephone or the witness has been allowed or required to appear by telephone, a party's failure to inform the Referee of the telephone number at which the Referee can, at the time of the hearing, reach the witness, or the witness' failure to answer the telephone at the number given to the Referee by the party seeking the witness' testimony, shall cause the Referee to conduct the hearing with those parties and witnesses who appeared in person or were available by telephone and to make his or her decision based on the available testimony and evidence in the record.

d) If any party or witness shall refuse to consent to the tape recording of the hearing by the Referee or refuse to take the oath or affirmation when requested by the Referee, the participation of that individual in the hearing shall be terminated and the hearing shall be conducted as if the individual failed to appear.

e) If a party fails to appear and an adverse decision is rendered, that party may, by letter or on the record, request rehearing of the appeal from the Referee or from his or her supervisor, provided that party has not filed an appeal to the Board of Review pursuant to Section 2720.300. In the event that such an appeal to the Board of Review has been filed, the rehearing request will be denied. The following procedure shall be used:

1) Requests to rehear the appeal must be filed no later than 10 days after the hearing or the date the party first knew or should have known of the scheduled hearing, whichever is later, but in no event beyond the time for filing a timely appeal to the Board of Review pursuant to Section 2720.300(a); e.g., the appellant does not attend a hearing because he or she claims not to have received notice of the hearing, he or she does, however, receive a decision that his or her appeal has been dismissed for failing to appear at the hearing, his or her request for rehearing must be filed within 10 days after this decision because, as a result of the dismissal of his or her appeal, he or she should have known that he or she missed the scheduled hearing. The requests must state the facts showing that failure to appear at the scheduled hearing was either due to not having received timely notice of the hearing or for an "exceptional reason" as set forth in Section 2720.240 and that either a request for continuance under that Section was improperly denied or the failure to make the request for a continuance was caused by reasons outside of the control of the party and by circumstances that could not have been foreseen and avoided. Upon a party's request, the party shall be treated as not having appeared at the hearing before the Referee and a rehearing shall be granted if, in making the request, the party shows that, at the time of the hearing, the party's Representative was participating in another hearing before a

Referee or Director's representative, the conflict was not patently evident prior to the scheduled start of the party's hearing, and no other reasonable accommodation could be made; except with respect to the facts required to be shown, the request must be consistent with all other provisions of this subsection (e).

2) Based on the statements in the request and the facts of the record:

   A) If the request meets the requirements of subsection (e)(1), a hearing shall be scheduled with notice to all parties (see Section 2720.205); or

   B) If the request fails to meet the requirements of subsection (e)(1), the request shall be denied and a written decision setting forth the reasons for the denial shall be issued. In these cases, if an adverse decision on the merits was issued, a timely appeal to the denial of a timely request for rehearing shall also constitute a timely appeal on the merits of the matter.

3) At the start of the hearing, any party may present its objections to the request. The Referee will consider all objections and responses and supporting evidence, if any, and will grant or deny the request for a rehearing at that time based on the preponderance of the evidence. If the Referee denies the request, he or she will terminate the proceedings. If the Referee grants the request, he or she will proceed to conduct a hearing on the merits.

4) If there is an objection to the request, the Referee's ruling will be on the record, and will state the reasons for the ruling that grants or denies the request. All denials of requests for rehearing shall be in writing.

5) If the party disagrees with the denial of the request for rehearing, he or she must appeal the denial within the time and in the manner set forth in Section 2720.300.

6) A decision to grant a rehearing is not immediately subject to appeal but may be raised by the aggrieved party if an appeal is filed to the decision on the merits of the matter.

   EXAMPLE: A decision is made to grant a rehearing to an appellant. After the rehearing, a decision is made in favor of the appellant. The appellee may appeal this decision to the Board of Review. In his appeal to the Board of Review, the appellee (now the appellant) may request that the Board of Review rule on the propriety of the granting of the rehearing before it goes to the merits of the matter.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.265 The Record

A complete record will be kept of all proceedings before the Referee. The record will consist of a digital recording and/or tape recording of testimony of the parties and their witnesses, and the digital and/or paper copy of all documents introduced into evidence, all notices, written motions or requests, decisions, findings of fact, and reports of investigations by the Adjudicator, Referee or Board of Review relating to the factual and/or legal issues on appeal.

(Source: Amended at 21 Ill. Reg. 9441, effective July 7, 1997)

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Section 2720.270 Referee's Decision

The Referee's Decision will include findings of fact and conclusions of law, separately stated and based on the preponderance of the credible, legally competent evidence in the record. The Department will mail a written copy of the Department's Decision to the parties (see Section 2720.1) and to nonparty employers pursuant to Section 2720.205(c). (Customarily, a decision will be mailed within 45 days after the date of filing of the appeal.)

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.275 Labor Dispute Appeals

a) Appeals from an Adjudicator's Determination regarding eligibility under Section 604 of the Act relating to unemployment due to a labor dispute shall be heard by the Director or a Director's Representative.

b) All procedural provisions of Subpart C, except for requests for rehearings, shall be applicable to the labor dispute proceedings.

c) After the completion of a hearing regarding any matter under the provisions of Section 604 of the Act, the Director's Representative shall issue a written report to the Director containing a Recommended Decision stating a factual and legal basis for it. A copy of the report and Recommended Decision shall be mailed to all parties and their designated representatives.

d) Within 10 days after the mailing of the report and Recommended Decision, any party may file written objections to it with the Director's Representative. After receipt of the report and Recommend Decision and objections or if no objections are filed within the time provided, the Director shall make a Decision affirming, modifying, or setting aside the Recommended Decision or remanding the proceedings with instructions.

(Source: Added at 11 Ill. Reg. 14338, effective August 20, 1987)

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Section 2720.277 Prehearing Conference in Labor Dispute Appeal

a) In any case arising under the provisions of Section 604 of the Act, the Director or the Director's Representative shall hold a prehearing conference if it will expedite the hearing.

b) All parties shall be given notice of the prehearing conference, and the following items shall be considered at the conference:

    1) Simplification of the issues;

    2) The possibility of obtaining admissions of fact and documents that will avoid unnecessary proof at the hearing;

    3) The limitation on the number of witnesses or the scope of their testimony.

c) After the conference, the Director or the Director's Representative shall issue an agreed order or stipulation either in writing or on the record that recites any action taken at the prehearing conference and identifies the issues for hearing that were not disposed of at the conference. The order or stipulations shall be made part of the record.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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SUBPART D: APPEALS TO THE BOARD OF REVIEW

Section 2720.300 Filing of Appeal

a) Any party may appeal a Referee's Decision. An appeal shall be filed by digital upload, in person, by fax, or by mail, preferably to the location stated on the Referee's Decision, or to any local office. No appeal may be filed by email. The appeal must be filed within 30 days after the Referee's Decision has been mailed or delivered or electronically transmitted to the parties.

b) No special form is necessary to file an appeal to the Board of Review. The appeal should:

1) Be in writing, dated and signed by the person or entity appealing or the representative of that person or entity;

2) Contain the docket number of the Referee's Decision, the name and either the Social Security Number or Claimant Identification Number of the claimant;

3) Set forth the parts of the Referee's Decision with which the appealing party disagrees and the specific reasons for that disagreement.

c) Any person or entity may request help to write an appeal from a Department representative. Timely filing of an appeal at a local office will be deemed timely filing of an appeal.

(Source: Amended at 49 Ill. Reg. 11127, effective August 20, 2025)

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Section 2720.305 Notice of Appeal

Written notice of the Appeal to the Board of Review will be mailed to the parties or their duly designated representatives and to nonparty employers in accordance with the provisions of Section 2720.205(c). Each notice of appeal will state the issues involved in the appeal, the date of filing of the appeal, and the appellant's right to apply for a Notice of Right to Sue as provided in Section 2720.345.

(Source: Amended at 11 Ill. Reg. 18671, effective October 29, 1987)

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Section 2720.310 Request for Oral Argument

The Board of Review shall decide a case on the record as defined in Section 2720.265 without oral argument or shall grant oral argument where it is necessary or appropriate for a full and fair disposition of the appeal, as follows:

a) Upon filing an appeal to the Board of Review, or, if the requesting party is the appellee, within 7 days after mailing of the Notice of Appeal, a party may request in writing that the Board hear oral argument. The requesting party must certify in writing that he or she has served a copy of his or her request for oral argument to all other parties.

b) Thereafter, the Board will promptly grant or deny the request (customarily within 30 days after the request). If the request is denied, the Board will issue its decision based on the record. Its decision will also contain the reasons for the denial of the request. If the request is granted, the Board will inform the parties in writing and will order such hearing as is necessary for a full and fair disposition of the appeal.

c) Request for Oral Argument by an appellee must contain the Board of Review Docket Number assigned to the matter, as set forth in the Notice of Appeal.

(Source: Amended at 33 Ill. Reg. 9623, effective August 1, 2009)

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Section 2720.315 Submission of Written Argument or Request to Submit Additional Evidence

a) A party may inspect or request a transcript of the hearing or a copy of the file as provided in this subsection. The appellant shall have 15 days after the appeal is filed to request a transcript of the hearing or a copy of the file. The appellee shall have 7 days after the mailing of the Notice of Appeal to request a transcript of the hearing or a copy of the file. In the event only a transcript is initially sought and obtained, a later request for a copy of the file must be made within 7 days after the date the transcript is mailed or made available for inspection. The Board of Review shall make the file available to the parties during the Department's regular business hours.

b) A party may file a written argument to the Board of Review as provided in this subsection. The Board of Review shall not consider any written argument, response, or reply unless the submitting party has certified that it served a copy of the written argument on the opposing party.

1) If a request for inspection of a transcript or a copy of the file has been timely made, the parties shall have 10 days after the date that the transcript or file is mailed or made available for inspection, whichever is later, to file a written argument to the Board of Review. The submitting party shall certify that it served a copy of the written argument on the opposing party.

2) If a request for an inspection or a transcript of the hearing or a copy of the file has not been timely made, the appellant shall have 15 days after the appeal has been filed and the appellee shall have 7 days after the date of mailing of the Notice of Appeal to file a written argument with the Board of Review. The submitting party shall certify that it served a copy of the written argument on the opposing party.

3) If the opposing party wishes to file a response, it must file with the Board and serve on the submitting party any response within 7 days after the submitting party's written argument was mailed to the opposing party.

4) If the submitting party wishes to file a reply, it must file with the Board and serve on the opposing party any reply within 5 days after the opposing party's response was mailed to the submitting party.

c) The Board of Review will consider requests to submit additional evidence submitted by the appellant within 15 days after the date an appeal is filed or by the appellee within 7 days after the date of mailing of the Notice of Appeal. In the event a transcript or copy of the file is sought, the request to submit additional evidence shall be filed no later than 10 days after the date the transcript or copy of the file is mailed or made available for inspection, whichever is later. The requesting party shall certify that it served a copy of its request on the opposing party.

1) A request to submit additional evidence must include:

A) A summary of the evidence to be introduced; and

B) An explanation showing that the requesting party, for reasons not its fault and outside its control, was unable to introduce the evidence at the hearing before the Referee.

2) If the party that filed a request to submit additional evidence, or its witness, failed to appear at a scheduled hearing, the Board shall not consider that party's request to submit additional evidence

unless that party can show that:

A) it did not receive timely notice of the hearing;

B) its failure to appear at the hearing was due to circumstances beyond its control; or

C) that it requested a continuance before the conclusion of the hearing, that was denied.

3) If the opposing party desires to file a response, it must file with the Board and serve on the requesting party any written response within 7 days after the request to submit additional evidence was mailed to the opposing party.

4) If the requesting party desires to file a reply, it must file with the Board and serve on the opposing party any written reply within 5 days after the opposing party's response was mailed to the requesting party.

5) A ruling by the Board of Review to deny a request to submit additional evidence will be announced in its decision. If the Board of Review grants the request, the parties will be notified in the Board of Review's decision or by separate written correspondence, which shall specify the time, place and manner in which the evidence is to be submitted. The Board of Review shall include a finding of facts and reasons for the grant or denial.

d) At the request of the party and for good cause shown, the Board will grant a reasonable extension of time within which to submit a written argument or request to submit additional evidence. No extension shall be for less than 7 days nor more than 30 days.

e) All notices, written arguments, requests to submit additional evidence, responses and replies must contain the Board of Review Docket number assigned to the matter, as set forth in the Notice of Appeal (see Section 2720.25).

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.320 Access To Record

Upon reasonable notice, either written or oral, to the Board of Review, a party may inspect the file during normal business hours at the office of the Board. A party may also obtain a copy of the record at the party's own expense at the cost of $.25 per page.

(Source: Amended at 11 Ill. Reg. 18671, effective October 29, 1987)

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Section 2720.325 Withdrawal Of Appeal

The appellant may voluntarily withdraw his appeal by signed written statement filed with the Board of Review at any time before the Board's decision is issued. All parties will receive notice of the withdrawal.

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Section 2720.330 Consolidation Or Severance Of Appeals

a) The Board shall, on its own motion or at the request of any party, consolidate appeals if it finds that the appeals involve common questions of law or facts, that consolidations will expedite the disposition of the appeals, and that no rights of any party will be prejudiced.

b) Prior to consolidation, all parties shall be given notice of the motion to consolidate in writing or on the record and shall be given an opportunity to be heard on the motion in writing or on the record.

c) The Board shall sever cases previously consolidated if it finds that the conditions in subsection (a) have not been satisfied.

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Section 2720.335 Decision of the Board of Review

The decision of the Board of Review will set forth, in writing, the factual and legal basis for its decision. The Board of Review shall cause a written copy of its decision to be mailed to the parties under Section 2720.1, and/or their representatives under Section 2720.5(c), and to nonparty employers (see Section 2720.205(c)) within the time limits specified in Section 803 of the Act.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)

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Section 2720.340 Extensions Of Time In Which To Issue A Board Of Review Decision

Section 803 of the Act requires that the Board of Review shall issue its Decision within 120 days of the date of filing of the appeal to the Board. However, an extension of up to 30 days shall be granted upon the written request of a party, addressed to the Board of Review, if the party states that the additional time is necessary for the submission of its written argument or in order to submit additional evidence. Notice of Approval of an Extension shall be given to the other party or to the non-party employer by the Board of Review.

(Source: Added at 11 Ill. Reg. 14338, effective August 20, 1987)

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Section 2720.345 Issuance Of Notice Of Right To Sue

a) If at the expiration of 120 days from the date of the filing of the appeal or after the expiration of an extension issued pursuant to Section 2720.340, whichever is later, the Board of Review has failed to issue its Decision, the appellant may file a written request, by certified mail, return receipt requested, for a Notice of Right to Sue.

b) Upon receipt of a request for a Notice of Right to Sue, the Board of Review shall either issue a Notice of Right to Sue, shall issue its Decision, or take no action.

c) If the Board of Review neither issues a Notice of Right to Sue nor its Decision within 14 days of the date of filing of the request for a Notice of Right to Sue, the Decision of the Referee shall be final and the appellant shall have a right to seek judicial review under the Administrative Review provisions in Article III of the Code of Civil Procedure. Any Decision of the Board of Review issued after the expiration of this 14 day period shall be null and void.

d) If the Board of Review issues a Notice of Right to Sue, the party to whom it is issued shall have 35 days from the date of mailing of the Notice in which to commence an action for judicial review. If the Board of Review fails to issue a Decision or a Notice of Right to Sue, the appellant shall have 35 days from the day following the 14th day after it filed its request for a Notice of Right to Sue in which to commence an action for judicial review.

(Source: Added at 11 Ill. Reg. 14338, effective August 20, 1987)

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PART 2725 ADMINISTRATIVE HEARINGS AND APPEALS
SUBPART A: GENERAL PROVISIONS

Section 2725.1 Definitions

All other terms used in this Part shall have the meaning set forth in definitions, Sections 200 through 247 of the Unemployment Insurance Act [820 ILCS 405/200 through 247].

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Adjudicator" means the person authorized to make findings, reconsidered findings, determinations, reconsidered determinations or decisions relating to the Act.

"Agency" means the Department of Employment Security.

"Application" means an Application for Revision of Statement of Benefit Charges or Application for Review of Rate Determination.

"Claim" means a Claim for Adjustment or Refund.

"Claimant" means a person who applies for benefits under the Act.

"Determination" means an Adjudicator's statement of whether or not a claimant is eligible for benefits or waiting week credit, and the dollar amount of such benefits for each week with respect to which a claim is made. (See 820 ILCS 405/702.)

"Director" means the Director of Employment Security.

"Director's Representative" means the administrative law judge designated by the Director to conduct hearings and recommend decisions to the Director.

"Filing Date" means the date a document was mailed to or received by the Agency, whichever is earlier.

"Finding" means a statement by an Adjudicator of the amount of wages for insured work paid to a claimant during each quarter in the claimant's base period by each employer [820 ILCS 405/701].

"Local Office" means the office of the Agency serving claimants who live in a specific geographical area.

"Petition" means a Protest and Petition for Hearing.

(Source: Amended at 35 Ill. Reg. 6129, effective March 25, 2011)

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Section 2725.3 Burden Of Proof

In all proceedings under this Part the party on whom the Act places the burden of proof must establish its position by a preponderance of the evidence. An application for relief under this Part will be granted when a party proves its allegations by a preponderance of the evidence.

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Section 2725.5 Designation Of Agents

Any employing unit may designate an agent to receive any documents by filing the name and address of such agent with the Agency or by changing its designated address to be in care of its agent. In such cases, notice to the designated agent is notice to the employing unit. Notwithstanding the foregoing, such documents sent to an employing unit shall be adequate notice under this Subpart.

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Section 2725.10 Computation of Time

a) For purposes of any notice, decision, ruling or order that is mailed or delivered by personal service by the Department, the calendar day on which any notice, decision, ruling or order is mailed or delivered by personal service by the Department shall be excluded in computing time. For purposes of any notice, decision, ruling or order that is posted electronically as provided in Section 2725.40, the date treated as the date of mailing for purposes of electronic notices shall be excluded in computing time.

b) The calendar day on which notice is due or action is required by a party shall be included in the computation of time.

c) If the last day a response is due to be filed is a day on which the Agency is closed, the due date is extended to the end of the next day on which the Agency is open.

d) The date on the document shall be rebuttable evidence that it was mailed or delivered on that date. A postmark placed on the envelope by the United States Postal Service shall be conclusive evidence of the date of mailing. An Agency notation showing the date of receipt shall be conclusive evidence of the date of personal service, or of an undated, unpostmarked document which is mailed. A return receipt signed and dated by an Agency employee shall be conclusive evidence of the date of receipt. For purposes of documents posted electronically as provided in Section 2725.40, notice shall be deemed to have been served as provided in Section 2725.40(e).

(Source: Amended at 43 Ill. Reg. 6434, effective May 14, 2019)

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Section 2725.11 Use of Private Messenger Services

For purposes of Section 2725.10, any date recorded or marked by a designated delivery service, recognized as such by the Internal Revenue Service (IRS) pursuant to 26 USC 7502(f), shall be treated as the postmark placed on an envelope by the United States Postal Service. IRS Notice 2004-83 (modifying Notice 2002-62), effective January 1, 2005, provides the list of designated delivery services and is subject to further revision by the IRS. Should there be additional or superseding IRS notices, procedures or other documents that are promulgated in the future, this Section will be amended accordingly. Until such time as this Section is amended, only those recognized designated delivery services in IRS Notice 2004-83 (modifying Notice 2002-62), effective January 1, 2005, shall be acceptable.

EXAMPLE: The employer is required to file its quarterly wage report for the first quarter of 2009 by April 30, 2009. On April 30, 2009, ABC Messenger Service records that it has received the wage report from the employer for delivery to the Agency. On May 1, 2009, ABC Messenger Service delivers the wage report to the Agency. A penalty will be assessed against this employer unless the IRS officially recognizes ABC Messenger Service as a designated delivery service at the time.

(Source: Added at 33 Ill. Reg. 9641, effective July 1, 2009)

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Section 2725.15 Disqualification Of Agency Employee

a) No Agency employee shall participate in any manner in any investigation or proceeding under the Act if such individual has a financial or other direct personal interest in the proceeding or investigation. Personal interest includes family, social or professional relationship or general bias or prejudice which would tend to affect the ability of the Agency employee to remain fair and impartial.

b) A person seeking such disqualification of an Agency employee must file a written request prior to the investigation or proceeding to disqualify the individual whose removal is sought. The request to disqualify must contain specific facts which indicate a financial or direct personal interest defined in subsection (a), or specific facts which indicate prejudice on the part of the person whose disqualification is sought.

c) The Agency employee whose disqualification is sought will respond to the request prior to the investigation or proceeding orally on the record or in writing. Further proceedings in the matter will be stayed until a decision on disqualification is rendered. If the request is granted, the Agency will reassign the matter. If the request is denied, the reasons for the denial shall be set forth in writing or on the record and the Agency employee will proceed with the investigation or proceeding. The request and reasons for the denial shall be part of the record on appeal.

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Section 2725.20 Request for Clarification

Any employer may request clarification of information contained on a "Statement of Benefit Charges" (Ben-118), a Statement of Amount Due (Ben-118R)," Contribution Rate Determination " or "Notice of Determination and Assessment and Demand for Payment" by contacting the Department of Employment Security, Division of Revenue, at the address or telephone number listed on such applicable form. However, such response by the Revenue Division shall be for informational and clarification purposes only and not binding on either the employer or the Agency.

(Source: Amended at 43 Ill. Reg. 6434, effective May 14, 2019)

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Section 2725.25 Form of Papers Filed

a) Each Application, Protest, Petition or Claim shall bear the name, address and account number of the employing unit and, when the employment or unemployment status of the individual or claimant is at issue, the name and Social Security account number or claimant ID number of the individual or claimant, along with the name, address and telephone number of the person filing the document.

b) All subsequent papers shall bear the docket number, if applicable, of the matter, along with the name, address and telephone number of the individual filing the document.

(Source: Amended at 43 Ill. Reg. 6434, effective May 14, 2019)

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Section 2725.30 An Employer's "Last Known Address"

a) Notwithstanding any provision to the contrary, and except as provided in subsection (b) and Section 2725.40, an employing unit's "last known address" or "last known place of business or residence", as those terms are used in the Act, is the last address provided to the Department by the employing unit.

EXAMPLE: On September 1, 2016, the Director mails an annual contribution rate notice to Employer A at the last address provided to the Department by Employer A. For purposes of Section 1509 of the Act, the annual contribution rate notice mailed on September 1, 2016 is mailed to Employer A's last known address.

b) The Department receives manual and electronic address correction notices from the United States Postal Service (USPS) to update employing unit addresses maintained in Department records when mail is sent to the last address provided by the employing unit but is undeliverable as addressed. Except as provided in this Section, when the Department receives notification from USPS that the employing unit's address is different from the last address provided to the Department by the employing unit, the new address provided by USPS shall be the employing unit's last known address or last known place of business or residence. The last address obtained from USPS is the employing unit's last known address or last known place of business or residence until the employing unit informs the Department of a change of address as provided in subsection (c).

EXAMPLE: When Employer A began business in 2010, it filed a "Report To Determine Liability Under the Illinois Unemployment Insurance Act" (see 56 Ill. Adm. Code 2760.105), listing its address as 1234 S. Main St., Springfield IL. On September 1, 2016, Employer A files a change of address with USPS, listing its new address as 5678 N. State St., Chicago IL. Employer A does not inform the Department of its change of address. On November 1, 2016, the Director mails an annual contribution rate notice to Employer A at 1234 S. Main St., Springfield IL, which is the last address provided to the Department by Employer A. For purposes of Section 1509 of the Act, the annual contribution rate notice mailed on November 1, 2016 is mailed to Employer A's last known address. Since Employer A filed a change of address with USPS, the annual contribution rate notice is forwarded to Employer A's new address by USPS. A few days later the Department receives notice of Employer A's change of address from USPS. The Department will update its records with the new address received by USPS. Subsequent mail sent to Employer A at 5678 N. State St., Chicago IL is mailed to Employer A's last known address.

c) It is the employing unit's responsibility to inform the Department of any address change through MyTax Illinois (mytax.illinois.gov), by mailing a UI-50A Notice of Change to the Department, or by calling, faxing or writing the Department and providing the same information as would be provided on the UI-50A. A change of address request must be signed unless the request is made by telephone. The mailing address and telephone and fax numbers for submitting a change of address can be found on the UI-50A, which is available on the Department's website (ides.illinois.gov). Except as otherwise provided for in Section 2725.40 for Electronic Posting of Notices, a change of address is effective the day on which it is received by the Department. If an employing unit does not file a UI-50A Notice of Change with the Department and instead relies on the Department to update its address based on information received by USPS, the employing unit bears the risk that the Department will not receive correct change of address information from USPS in a timely manner. A new last known address or last known place of business or residence received from USPS is not effective until the Department updates its records with the new address.

EXAMPLE 1: In January 2010, Employer A filed a UI-50A notifying the Department that its mailing address was 1234 S. Main St., Springfield IL. On March 1, 2015, Employer A files a change of address with USPS, listing its new address as 5678 N. State St., Chicago IL. On November 23, 2015, the Director mails Employer A's annual contribution rate notice to Employer A at 1234 S. Main St., Springfield IL, the last address provided to the Department by Employer A. For purposes of Section 1509 of the Act, the annual contribution rate notice mailed on November 23, 2015 is mailed to Employer A's last known address. The USPS forwards the annual contribution rate notice to Employer A at its new address but does not notify the Department of Employer A's change of address information. A little over a year later, on November 25, 2016, after USPS has stopped forwarding Employer A's mail, the Department sends another annual contribution rate notice to Employer A at its 1234 S. Main St., Springfield IL address. For purposes of the Act, the annual contribution rate notice mailed on November 25, 2016 to 1234 S. Main St., Springfield IL is mailed to Employer A's last known address.

EXAMPLE 2: Same facts as Example 1 except, in addition to filing a change of address with USPS, on March 1, 2015, Employer A also files a UI-50A with the Department, listing its new address as 5678 N. State St., Chicago IL. If the Department does not timely update its records before sending the annual contribution rate notice on November 23, 2015, since Employer A properly notified the Department of its change of address, the annual contribution rate notice mailed to Employer A's old address will not be treated as having been mailed to Employer A's last known address for purposes of the Act.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.35 Electronic Submissions

a) For purposes of this Section, "electronic submission" means any document that is transmitted to the Department through MyTax Illinois (mytax.illinois.gov), including, but not limited to, a contribution and wage report required by 56 Ill. Adm. Code 2760.120, 2760.125 or 2760.145, an application for review of rate determination (see Section 2725.105), a protest of a determination and assessment as provided by Section 2725.110, a claim for adjustments or refund (see Section 2725.115), an election to make payments in lieu of contributions, or a written notice of termination of election, an application for review of a Director's order allowing or denying an election to make payments in lieu of contributions, or a written notice of termination of election (see Section 2725.125), an application for waiver (see Section 2765.75), or an appeal of an order or determination and assessment of the Director (see Section 2725.200).

b) The date that the Department confirms receipt of the electronic submission, as shown in the "Date Submitted" field of the electronic submission, will constitute the date of filing. An electronic submission will be confirmed as received only if all required information is provided in accordance with the instructions. An electronic submission will not be considered filed unless it has been confirmed as received by the Department, as evidenced by the electronic confirmation number and confirmation page provided.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.40 Electronic Posting of Notices

a) On and after November 11, 2017, when a person or employing unit uses the Department's online tax system, MyTax Illinois (mytax.illinois.gov), the Department will post an electronic version of all notices, except as provided in subsection (c), that are required to be mailed to the person or employing unit, including, but not limited to, notices under Sections 1400, 1509, 2200 and 2201 of the Act, in the correspondence tab of the account of the person or employing unit on the MyTax Illinois website.

b) An email address is needed to register an account in MyTax Illinois. When a notice is posted to the MyTax Illinois account of a person or employing unit as provided in subsection (a), the Department will send an email to each email address that has been provided on the account. A person or employing unit that uses MyTax Illinois will continue to receive, in addition to receiving email notifications and notices within MyTax Illinois, all notices as a paper document sent through USPS to its last known address as provided in Section 2725.30, unless the person or employing unit elects to stop receiving notice under subsection (d). Unless the person or employing unit elects to stop receiving notice as a paper document sent through USPS, the last known address for purposes of the notices described in subsection (a) shall be as provided by Section 2725.30.

c) Electronic versions of the following notices are not posted on the MyTax Illinois website and, regardless of an election under subsection (d), will always be sent as a paper document through USPS:

1) All notices that a person or employing unit is entitled to receive after the filing of an appeal of an order or Determination and Assessment of the Director as provided in Subpart C, including, but not limited to, hearing notices (see Section 2725.210), recommended decisions (see Section 2725.270), and decisions of the Director (see Section 2725.280); and

2) Certificates of withdrawal or release of a notice of lien (see Section 2401 of the Act).

d) A person or employing unit that uses the Department's online tax system may elect to stop receiving notice as a paper document sent through USPS for any notice, except those notices described in subsection (c), that is required to be mailed by the Department as provided in subsection (a). An election under this subsection must be made on the MyTax Illinois website.

e) If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, the email address or addresses provided by the person or employing unit shall be the last known address for purposes of Section 2725.30 for each notice described in subsection (a), and the notices described in subsection (a) will not be mailed to the person or employing unit through USPS. If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, then notice shall be deemed to have been served on the person or employing unit if the Department posts an electronic version of the notice in the correspondence tab of the account of the person or employing unit on the MyTax Illinois website and transmits an email to at least one of the email addresses provided on the account of the person or employing unit, even if the email is not accepted by the server of the person or employing unit.

EXAMPLE 1: An employing unit establishes a MyTax Illinois account and, pursuant to subsection (d), elects to stop receiving notice as a paper document sent through the USPS. The employing unit provides a total of four different email addresses for the account. The Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile and attempts to send an

email notification to each of the four email addresses provided by the employing unit. Due to a computer glitch, only one email is sent. Because the Department transmitted an email to at least one of the email addresses provided on the account of the employing unit, notice of the Determination and Assessment will be treated as having been served on the employing unit.

EXAMPLE 2: An employing unit establishes a MyTax Illinois account and, pursuant to subsection (d), elects to stop receiving notice as a paper document sent through USPS. The employing unit provides an email address for the account. The Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile and sends an email notification to the email address provided by the employing unit. The email is rejected as undeliverable by the recipient's e-mail server. Because the email was sent to the email address provided by the employing unit, notice of the Determination and Assessment will be treated as having been served on the employing unit.

f) If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, the date of mailing of the notice for purposes of the Act shall be whichever of the following dates is later:

1) The mail date listed on the notice that is posted on the MyTax Illinois website; or

2) The date that the email notifying the person or employing unit that a notice has been posted to the MyTax Illinois website is transmitted to the person or employing unit.

EXAMPLE 1: An employer has elected to stop receiving notice through USPS under subsection (d). On October 1, 2017, the Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile. The mail date on the Determination and Assessment is October 3, 2017 to allow time for system processing. Due to a system error, the Department does not email the employer until October 4, 2017 to inform it that the Determination and Assessment has been posted to the MyTax Illinois website. Even if the employer logs into its MyTax Illinois account and views the document on October 1, 2017, notice of the Determination and Assessment will be treated as having been mailed on October 4, 2017.

EXAMPLE 2: An employer has elected to stop receiving notice through USPS under subsection (d). On October 1, 2017, the Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile. The mail date on the Determination and Assessment is October 3, 2017 to allow time for system processing. The Department sends the employer an email on October 2, 2017 to inform it that a notice has been posted to the MyTax Illinois website. Notice of the Determination and Assessment will be treated as having been mailed on October 3, 2017.

g) The email notifying the person or employing unit that a notice has been posted to the MyTax Illinois website may not be responded to by email. If the notice posted to the MyTax Illinois website provides for appeal rights or otherwise allows or requires a response by the person or employing unit, the person or employing unit must appeal or respond according to the instructions provided on the notice, whether posted to the MyTax Illinois website or sent through USPS.

EXAMPLE: On November 1, 2017, the Department sends an employing unit an email notifying the employing unit that a notice has been posted to the MyTax Illinois website. The notice posted to the MyTax Illinois website is an Annual Notice of Contribution Rate Determination. The notice informs the employing unit that, pursuant to Section 2725.105, it may file an application for review of the notice of

contribution rate determination online using MyTax Illinois or by mail at the address on the Notice of Contribution Rate Determination. On November 2, 2017, the president of the employing unit signs into MyTax Illinois and sees the rate notice. Instead of submitting an application for review on MyTax Illinois or by mail, the president of the employing unit sends an application for review of the rate notice in an email response to the email that the Department sent to the employing unit. Since the application for review was not submitted to the Department in accordance with Section 2725.105, as explained on the Notice of Contribution Rate Determination, the application for review will not be treated as filed for purposes of Section 1509 of the Act, and the rate determination will be final against the employing unit. Under Section 2725.105 and subsection (g), it is the employing unit's responsibility to respond to the notice according to the instructions provided on the notice.

h) If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, the email address or addresses provided by the person or employing unit will continue to be the last known address of the person or employing unit for purposes of the notices described in subsection (a) until the person or employing unit changes its email address or cancels its election to stop receiving notice as a paper document sent through USPS. An election to change an email address or cancel an election to stop receiving notice as a paper document sent through USPS may be completed within MyTax Illinois. A change pursuant to this subsection is not effective until it has been processed by the Department.

EXAMPLE 1: Six months after electing to stop receiving notice as a paper document sent through USPS as provided in subsection (d), an employer loses access to the email address it provided to the Department and begins using a new email address. However, the employing unit does not notify the Department of the new email address. On November 1, 2017, the Department posts an Annual Notice of Contribution Rate Determination in the correspondence tab of the employer's MyTax Illinois profile. On the same day, the Department sends the employing unit an email to the email address the employing unit provided to the Department, notifying the employing unit that a notice has been posted to the MyTax Illinois website. The Notice of Contribution Rate Determination informs the employing unit that, pursuant to Section 1509 of the Act, the employing unit has 15 days from November 1, 2017 to file an application for review of the rate determination. Since the employing unit no longer has access to the email address it provided to the Department, it does not receive the email or retrieve the notice in MyTax Illinois. On November 20, 2017, the employing unit signs into MyTax Illinois, sees the rate notice, and immediately files an application for its review. Since the application for review was filed more than 15 days after the mail date listed on the notice, which was also the date that the Department sent an email to the employing unit's last known address, the application for review is not timely, and the rate determination will be treated as final against the employing unit. Under subsection (h), it is the employing unit's responsibility to notify the Department of its new mailing address through MyTax Illinois.

EXAMPLE 2: An employing unit establishes a MyTax Illinois account and, pursuant to subsection (d), elects to stop receiving notice as a paper document sent through USPS. The employing unit provides an email address for the account "oldemail@example.com." The Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile and sends an email notification to the email address provided by the employing unit. The employing unit's email sends an automatic reply to the Department that states: "My email address has changed. Please email me at my new email address: newemail@example.com". Since the email sent by the Department is an automated notification and is unable to receive replies, the Department does not update the email address of the employing unit. Notice will be treated as properly served on the employing unit when sent to the original email address provided by the employing unit (oldemail@example.com). It is the employing unit's

responsibility to notify the Department of its new mailing address through MyTax Illinois.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.45 Signature Requirement

Unless otherwise provided, a letter, form or request that is required to be signed by this Part and 56 Ill. Adm. Code 2760 and 2765 and that is submitted on behalf of an employing unit must be signed by the owner, partner or authorized officer or official of the employing unit, or its authorized agent. Unless otherwise provided, a letter, form or request that is required to be signed by this Part and 56 Ill. Adm. Code 2760 and 2765 and that is submitted by or on behalf of an individual that is not himself or herself an employing unit must be signed by the individual or his or her agent. A letter, form or request that is required to be signed as provided in this Section may be electronically signed (see Section 2725.50). A signature, including an electronic signature, constitutes an attestation that the information submitted is true and correct to the best of the signatory's knowledge and belief.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.50 Electronic Signature

An electronic submission, as defined by Section 2725.35, that must be signed shall be signed using an electronic signature in lieu of a written signature by clicking the "I Agree" check box beneath the certification statement prior to submission on the MyTax Illinois website (mytax.illinois.gov). An electronic submission has the same legal effect as a signature on a paper document.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.55 Forms

Blank copies of all reports and forms mentioned in this Part and 56 Ill. Adm. Code 2760 and 2765 are available on the Department's website (ides.illinois.gov) and, except the reports described in 56 Ill. Adm. Code 2760.105, may also be obtained by contacting the Department's Revenue Division at the Agency's Chicago central office, whose address is found in 56 Ill. Adm. Code 2712.10, or by email to des.uitax@illinois.gov. Copies of the reports described in 56 Ill. Adm. Code 2760.105 may be obtained from the Illinois Department of Revenue at Central Registration Division, Illinois Department of Revenue, PO Box 19030, Mail Code 3-222, Springfield IL 62794-9030.

(Source: Amended at 49 Ill. Reg.11135, effective August 20, 2025)

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SUBPART B: FILING OF APPLICATIONS AND CLAIMS FOR RELIEF

Section 2725.100 Application For Revision Of Statement Of Benefit Charges

a) Applications for Revision of the Statement of Benefit Charges must be filed at the address specified on such Statement, within 45 days of the mailing of such Statement, as provided in Section 1508 of the Act.

b) An Application shall set forth: the name and Social Security account number of each claimant whose benefit charges are contested; the amount of benefit charges contested or the weeks of benefit charges contested; the year and quarter of the Statement contested; and, in the cases described in subsections (b)(1), (2) and (3) below, a statement of facts providing the basis for relief upon which the employer relies in its Application.

1) If an employer alleges that the benefit charges arose from the payment of benefits to a claimant for weeks of eligibility to which the employer was entitled to notice of a determination pursuant to Sections 702 or 703 of the Act, and was not notified of such determination of eligibility and the claimant was improperly paid benefits, the employer must show that it filed in response to notice of the claim, a timely (see 56 Ill. Adm. Code 2720.30) Notice of Possible Ineligibility or letter in lieu thereof alleging that the claimant was ineligible for benefits for the weeks charged and did not receive a determination of eligibility or decision holding the Notice of Possible Ineligibility or letter in lieu thereof as insufficient or untimely.

A) A copy of the allegedly unanswered Notice of Possible Ineligibility or letter in lieu thereof should, if possible, be included with the Application, together with any subsequent documentation where applicable, such as a Referee or Board of Review decision holding the Notice of Possible Ineligibility as sufficient.

B) If the employer did not file a timely and sufficient Notice of Possible Ineligibility or letter in lieu thereof (pursuant to 56 Ill. Adm. Code 2720.130) in response to the notice of claim, the employer's remedy is to request a reconsidered determination from the local office Claims Adjudicator where the claimant filed for benefits, pursuant to Section 703 of the Act, or if a determination of eligibility was served upon the employer, its remedy is to file an appeal to the determination under Section 800 of the Act.

C) If the determination of eligibility for the weeks charged is reversed, the employer will receive appropriate relief from the benefit charges through the operation of Section 706 of the Act.

2) If the employer is charged for benefits and claims that it was not sent a notice that a claim was filed, the employer must allege this fact and, at a hearing, must prove lack of notice and must show the reasons why the payment of benefits to the claimant for the weeks charged is improper.

A) If an employer was served with a notice that a claim was filed, the employer's remedy for relief of the benefit charges is its protest of the claimant's eligibility pursuant to Section 800 of the Act or a request for reconsideration of a determination pursuant to Section 703 of the Act with the Claims Adjudicator at the local office where the claimant filed for benefits.

B) If the determination is subsequently modified or reversed, the benefit charges will be modified or cancelled, as appropriate, through the operation of Section 706 of the Act. (See 56 Ill. Adm. Code

2720).

3) When the employer alleges that a clerical error was made by the Agency, the nature of the clerical error and its effect on the benefit charges must be clearly stated. A copy of the material bearing the error must accompany the Application.

c) An Application which fails to meet the criteria in subsection (b)(1) thru (3) shall be ruled insufficient and the Director shall serve notice of such ruling and the basis therefor upon the employer. The ruling shall be final and conclusive unless the employer files, within 20 days of the date of mailing of the ruling, a written objection or a revised Application for Revision of the Statement of Benefit Charges, specifically responding to the reasons the original Application was ruled insufficient. The written objection or revised Application shall be reviewed and, if sufficient, an order issued. An employer disagreeing with such order may appeal to a Director's Representative under Subpart C of this Part if such appeal is taken within 20 days of the date of mailing of the order. If the written objection or revised Application is still found to be insufficient, it shall again be ruled insufficient, and such ruling shall be final and subject to review under the State's Administrative Review Law [735 ILCS 5].

1) Where an employer alleges that a claimant was not an unemployed individual under Section 239 of the Act during a period when such claimant was paid benefits, no relief shall be available under Section 1508 of the Act, but the matter shall be referred to the local office where the claimant last filed a claim for benefits for investigation to which such employer shall be a party. If the claimant is determined ineligible, appropriate relief will be granted to such employer under Section 706 of the Act.

2) Where an employer alleges that his Statement of Benefit Charges is incorrect because it is not the chargeable employer pursuant to Section 1502.1 of the Act, such Application must contain a reference to and a copy of the decision which reverses the claims adjudicator and holds that the employer is not the chargeable employer. Unless the employer has filed a timely request for reconsideration to the decision that the claims adjudicator has found it to be the chargeable employer, pursuant to 56 Ill. Adm. Code 2765.325, 2765.326 or 2765.329, such employer shall not be entitled to a revision of its "Statement of Benefit Charges".

d) Upon receipt of a sufficient Application, the Application shall be ordered allowed or denied in whole or in part and notice of such order stating the basis therefor shall be mailed to the employer. Such application will be allowed in part and denied in part where the employer has contested multiple benefit charges but has made sufficient allegations on some but not all. Such order shall become final and conclusive at the expiration of 20 days from the date of mailing of such order, unless the employer shall have filed a Petition specifying its objections thereto.

e) Where the allegation in the Application is lack of notice of a determination or reconsidered determination and the ineligibility of the claimant for a specific reason, such employer shall be sent either a copy of the original determination or reconsidered determination, as may be applicable, and if the allegation of lack of notice proves to be true, the period for filing a timely appeal under Section 800 of the Act and 56 Ill. Adm. Code 2720, Subpart C shall begin from the date of mailing of the copy of the determination or reconsidered determination.

(Source: Amended at 20 Ill. Reg. 6378, effective April 29, 1996)

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Section 2725.102 Filing Additional Information for an Application for Revision of Statement of Amount Due for Benefits Paid During the Effective Period of Section 1502.4 of the Act

a) Subject to subsection (b), if an Application for Revision of the Statement of Amount Due for Benefits Paid has been timely filed, an employer may file, within 30 days after the period for filing an application has ended, additional information to be considered as part of its application.

b) Subsection (a) shall be applicable to benefits paid for the weeks of March 15, 2020 through January 2, 2021 (the period that the non-charging provisions of Section 1502.4 of the Act is in effect), and shall not extend beyond the calendar quarter that follows the calendar quarter that contains the last week of non-charging under Section 1502.4 of the Act.

EXAMPLE: Employer A is a liable nonprofit organization that has elected to make payments in lieu of contributions. Claimant Z worked for Employer A, but due to COVID-19 became unemployed and received unemployment insurance benefits through the week ending January 2, 2021. Without an amendment extending the effective period established in Section 1502.4 of the Act, the week ending January 2, 2021 is the last week that the non-charging provisions of Section 1502.4 of the Act are in effect. The week ending January 2, 2021 falls within the first calendar quarter of calendar year 2021. Accordingly, the last Statement of Amount Due for Benefits Paid for which Employer A may file a timely application for revision, and thereafter have an additional 30 days to file additional information, is the statement issued for the second calendar quarter of calendar year 2021.

(Source: Added at 44 Ill. Reg. 17657, effective October 23, 2020)

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Section 2725.105 Application for Review of Rate Determination

a) An Application for Review of Rate Determination should be filed online using MyTax Illinois (mytax.illinois.gov) or at the address on the Notice of Contribution Rate Determination. An application must be signed and filed within 15 days after the mailing of the Notice of Contribution Rate Determination to the employer. If an application has been timely filed, an employer may file additional information to be considered as part of its application within 30 days after the period for filing an application has ended.

b) A sufficient application shall set forth the following:

1) If the rate determination is based in whole or in part on erroneous benefit charges, the application must allege:

A) The employer was not served with a Statement of Benefit Charges containing the benefit charges used in the calculation of the employer's contribution rate; or

B) The employer has received an order or decision allowing an adjustment of the benefit charges used in calculating the employer's contribution rate. A copy of the order or decision must be attached to the application.

2) If a determination or decision allowing the payment of benefits has finally been reversed or modified and the benefit charges resulting from the benefit payment were not revised in accordance with the provisions of Section 706 of the Act, the employer shall provide a copy of the final reconsidered finding, reconsidered determination or decision.

3) If the Department has made a mathematical error, the employer shall provide a detailed, clear statement showing the correct calculations.

4) If the employer alleges that the provisions of Section 1507 of the Act have been erroneously applied, the employer must show that it complied with 56 Ill. Adm. Code 2760.105(b), if applicable, and shall provide a statement of whether the employer has succeeded to substantially all or to a distinct severable portion of the employing enterprises of a predecessor, or whether a successor has succeeded to substantially all or a distinct severable portion of the employer's employing enterprises, and the factual basis for those statements.

5) If an employer alleges that the provisions of Section 1507.1 of the Act have been erroneously applied, the employer must show that it complied with 56 Ill. Adm. Code 2760.105(b), if applicable, and shall provide a statement of whether the employer is a transferee of trade or business and whether there is common ownership, management or control, and the factual basis for those statements.

6) If the employer alleges an incorrect North American Industry Classification System (NAICS) code, a statement of the employer's primary activity and the factual basis for that statement must be provided.

7) If the employer alleges that it has not been credited with the full amount of wages for insured work subject to the payment of contributions that it reported, it shall state the exact amount of the wages and the quarters for which the wages were reported and shall provide a copy of its Employer's Contribution and Wage Report (see 56 Ill. Adm. Code 2760.25) and any forms, Social Security

Number Correction and Name Change Notice used to report additional wages for the same quarters (see 56 Ill. Adm. Code 2760.145).

c) An application that does not specify the factual basis for relief sought, or does not contain the information required by the applicable Section of this Part, shall be ruled insufficient. The ruling shall be final and conclusive unless the employer files, within 10 days after the date of mailing of the ruling, a written objection or revised application specifically responding to the reasons the original application was ruled insufficient. If a written objection or revised application has been timely filed, an employer may file additional information to be considered as part of its objection or revised application within 30 days after the period for filing a written objection or revised application has ended. The written objection or revised application shall be reviewed and an order allowing or denying relief issued.

d) If the application is sufficient, the Department shall investigate the allegations in the application based on agency records and any documents supplied by the employer. The Department shall issue a written order with reasons for denying the application or allowing the application in whole or in part.

e) An employer disagreeing with the order may appeal to a Director's representative under Subpart C.

f) If the basis for review of the rate determination is a pending benefit charge matter, the matter is not a basis for relief under this Section, but rather the employer's remedy is pursuant to Section 1508 of the Act and Section 2725.100. If the benefit charges are modified or cancelled, as appropriate, through the operation of Section 2725.100, appropriate relief will be granted through the operation of Sections 1508 and 1509 of the Act.

EXAMPLE: While review of a benefit charge matter is pending, the employer receives a Notice of Contribution Rate Determination based on the contested benefit charges. This employer's pending Application for Revision of Statement of Benefit Charges shall be deemed to be an Application for Review of that portion of its rate based on the contested Statement. If the employer prevails on the application, its benefit ratio shall be modified accordingly and, if this results in a change to its rate, a revised Notice of Contribution Rate Determination will be issued.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.110 Protest of Determination and Assessment

a) A protest of a Determination and Assessment must be filed in the form of a petition and should be filed online using MyTax Illinois (mytax.illinois.gov) or at the address shown on the Determination and Assessment. A protest must be signed and filed within 20 days after service. If a protest has been timely filed, an employer may file additional information to be considered as part of its protest within 30 days after the period for filing a protest has ended.

b) A sufficient Petition shall set forth the specific part of the Determination and Assessment with which the employing unit disagrees and the specific legal and factual basis for the disagreement and, in the specific situations described in this subsection (b), will state the following:

1) If the employing unit alleges that it has paid all or part of the amount assessed, the exact amount of the contributions, penalties and interest paid, if any, the date paid and the quarter to which the payment relates;

2) If the employing unit alleges that the Determination and Assessment is erroneous because of clerical error, the specific nature of the clerical error;

3) If the employing unit claims one or more persons whose wages are the basis of the Determination and Assessment were not in employment, the names, addresses and Social Security account numbers of those persons, the nature of the services performed, if any, and the reasons the person or persons are not considered in employment; or

4) If the employing unit alleges that it is not an employer subject to the Act, the reasons for that allegation and supporting facts.

c) An employing unit that files a petition that does not contain the information required by subsection (b) shall be notified of the insufficiency and given 20 days after the date of mailing of that notice to revise the petition or file objections to the notice. A revised petition or objections to the notice must be signed and should be filed online using MyTax Illinois or at the address shown on the notice of insufficiency. If a revised petition or objections to the notice of insufficiency have been timely filed, an employer may file additional information to be considered as part of its application within 30 days after the period for filing a petition has ended. If a revised petition or objections responding to the notice are filed within 20 days after the date of mailing of the notice and the petition or revised petition is still determined to be insufficient, the revised petition or original petition and objections, as the case may be, shall be adjudicated under Subpart C. If no further documents are filed or corrections made, electronically or by mail, within 20 days after the date of mailing of the notice of insufficiency, the petition shall be ruled insufficient and the ruling, notice of which shall be provided to the employing unit, shall be final and subject to review under the State's Administrative Review Law [735 ILCS 5/Art. III].

d) An employing unit that files a petition, but not within the time prescribed, shall be notified of its untimeliness and given 20 days after the date of mailing of the notice to submit further information or objections to the notice of untimeliness. Objections to the Notice of Untimeliness must be signed and should be filed online using MyTax Illinois or at the address shown on the notice of untimeliness. If further information or objections to the notice of untimeliness has been timely filed, an employer may file additional information to be considered as part of its submission within 30 days after the period for

submitting further information or objections has ended. If, within 20 days after the date of mailing of the Notice of Untimeliness, information or objections are filed but do not sufficiently respond to the notice of untimeliness, the petition shall be adjudicated under Subpart C. If, within 20 days after the date of mailing of the notice of untimeliness, no information or objections are filed, the petition shall be ruled untimely and the ruling, notice of which shall be provided to the employing unit, shall be final and subject to review under the Administrative Review Law.

e) Except as provided in subsection (f), if the petition is sufficient and timely, the Department will investigate the allegations in the petition based upon Department records and any documents supplied by the employing unit. If the Department determines that the petition should be allowed, the Department shall cancel the Determination and Assessment by written order. If the Department determines that the petition should be allowed in part and denied in part, the Department shall modify the Determination and Assessment by written order, with reasons for the partial denial. An employing unit disagreeing with the Order to Modify the Determination and Assessment may file a petition to the Modified Determination and Assessment as provided in subsections (a) and (b). If the Department determines that the Determination and Assessment should be affirmed, the petition shall be adjudicated under Subpart C.

f) If an employing unit files a timely and sufficient petition in response to a Modified Determination and Assessment issued under subsection (e) or a Determination and Assessment that is issued as a result of an audit, the petition shall be adjudicated under Subpart C.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.115 Claim For Adjustments (Credits) And Refunds

a) Claims for Adjustments (credits) or Refunds must be signed and should be made online using MyTax Illinois (mytax.illinois.gov) or on the Department form Employer's Claim for Adjustment/Refund and filed at the address listed on the form. Except as provided in this subsection, a claim must be filed within three years after the date the employing unit paid the contributions, interest or penalties that are the basis of the employing unit's claim. In the case of an erroneous payment that occurred January 1, 2015 through September 8, 2017, the employing unit may file the claim for adjustment or refund not later than June 30, 2018 or three years after the date of the erroneous payment, whichever is later. If a claim for adjustment or refund has been timely filed, an employer may file additional information to be considered part of its claim within 30 days after filing the claim.

b) A sufficient Claim for Adjustment (credit) or Refund must meet the requirements set forth in 56 Ill. Adm. Code 2760.150 and shall set forth the reason for the refund as follows:

1) The employer overpaid due to a mathematical error. For example, the employer misplaced a decimal point in computing his or her contributions due;

2) The employer paid at an incorrect rate. For example, the assigned rate was 2.0% and the employer paid at 3.7%. This frequently occurs the first year an employer receives a rate based on its experience;

3) The employer reported wages paid to workers to Illinois that should have been reported to a different state. In this case, the employer must supply the Department with a list of workers' names and Social Security numbers on the form titled "Employer's Correction Report of Wages Previously Reported" if he or she has not already done so on form UC-40C "Employer's Correction Report For The Quarter" (see 56 Ill. Adm. Code 2760.145(a)). If any benefits have been paid to these workers by Illinois, the refund amount shall be adjusted downward to reflect any benefits paid due to the employer's error;

4) The employer reported payments that are excluded from the definition of "wages" by the Act. For example, a sole proprietor reported compensation paid to his or her parents. In these cases, the employer must supply the Department with a list of the workers' names and Social Security numbers on an "Employer's Correction Report For Wages Previously Reported" if he or she has not already done so on an "Employer's Correction Report For The Quarter" (see 56 Ill. Adm. Code 2760.145(a)). If any benefits have been paid to these workers, the refund amount shall be adjusted downward to reflect any benefits paid due to the employer's error;

5) The employer incorrectly reported total payments as wages subject to the payment of contributions;

EXAMPLE: The employer made an error in computing the excess wages. In this case, the employer must file an "Employer's Correction Report Of Wages Previously Reported" to correct his or her error if he or she has already not done so on an "Employer's Correction Report For The Quarter" (see 56 Ill. Adm. Code 2760.145(a)).

6) The employer overpaid due to a rate revision;

EXAMPLE: The employer's rate is revised downward after he or she has already paid the contributions for the quarter, thus creating a credit balance for which he or she can request a refund

or adjustment.

7) The employing unit is not an employer subject to the Act, but has paid contributions;

8) Any other circumstances that would show that the employer overpaid his or her contributions;

9) The employing unit has paid interest and/or penalties that were determined not due.

c) If the Claim for Adjustment (credit) or Refund is sufficient, the Department will investigate the allegation in the claim by examining Department records and documents supplied by the employer and then issue a written order.

d) A claim that does not specify the factual basis for the relief sought or does not contain the information required by subsection (b) shall be ruled insufficient. The ruling shall be final and conclusive unless the employer files, within 20 days after the date of mailing of the ruling in accordance with Section 2203 of the Act, a written objection or revised claim, specifically responding to the reasons the original claim was ruled insufficient. The written objection or revised claim must be signed and should be filed online using MyTax Illinois or at the address listed on the ruling. If a written objection or revised claim has been timely filed, an employer may file additional information to be considered as part of its submission within 30 days after the period for filing a written objection or revised claim has ended. The written objection or revised claim shall be reviewed and an order, allowing in whole or in part or denying in whole or in part, shall be issued. An employer disagreeing with the order may appeal to a Director's representative under Subpart C.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.120 Application For Cancellation Of Benefit Charges Due To Lack Of Notice

a) An Application for Cancellation of Benefit Charges due to lack of notice made pursuant to Section 1508.1 of the Act shall be sufficient only if the following requirements are met:

1) The employer has also filed a timely and sufficient Application for Revision of Statement of Benefit Charges, as provided in Section 2725.100; and

2) The employer specifically alleges in its Application for Cancellation of Benefit Charges that the Agency did not issue one or more of the following Notices within the required time period:

A) A "Notice to Last Employer, Last Employing Unit or Other Interested Party," (See 56 Ill. Adm. Code 2720.130(a)(1)) within 180 days after the date of the initial Finding; or

B) A "Notice of Determination" (BEN-134) (See 56 Ill. Adm. Code 2720.140(a)) under Section 702 of the Act within 180 days after the employer's timely "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof (see 56 Ill. Adm. Code 2720.130), or, in the case of a remanded Decision regarding the sufficiency of the employer's protest under Section 702 of the Act, within 180 days after the remanded Decision; or

C) In the case of a "Notice of Determination" (BEN-134) issued under Section 702 of the Act, in which an issue was not adjudicated at the time of the employer's timely "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof, because of the individual's failure to file a claim for a week of benefits, within 180 days after the date on which the individual first files a claim for a week of benefits; or

D) A "Notice of Reconsideration of Findings" or "Notice of Reconsideration of Determination" (BEN-134), within 180 days after the date of reconsideration; or

E) A "Notice of Referee's Decision" (See 56 Ill. Adm. Code 2720.270), which allows benefits within 180 days after the date that the appeal was received by the Agency; or

F) Under Section 604 of the Act, a "Notice of Director's Decision" within 180 days after the date of the report and Recommended Decision of the Director's Representative; or

G) With respect to the notice of a decision that the employer is a chargeable employer, pursuant to 56 Ill. Adm. Code 2765, within 180 days after the employer's protest or appeal of such a decision.

b) A citation to Section 1508.1 of the Act or this Section of the Rules need not be made in the Application, nor is it necessary to specifically allege the failure of the Agency to act within 180 days.

Example: The employer meets the requirements of subsection (a)(1) and alleges that the Agency failed to respond to its timely "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof by issuing a "Notice of Determination" (BEN-134). If the Agency finds that the allegations contained in the employer's Application for Cancellation of Benefit Charges are true, and 180 days have elapsed since the employer's "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof, then the benefit charges in question will be cancelled.

c) The Application for Cancellation of Benefit Charges can be made a part of an Application for Revision of Statement of Benefit Charges provided that the requirements of subsection (a)(2) are satisfied.

d) An Application for Cancellation of Benefit Charges will be denied if an Application for Revision of Statement of Benefit Charges regarding the same benefit charges and based on the same allegation has already been denied.

e) The cancellation of benefit charges will be allowed if it is proven by the employer that:

1) The employer meets the definition of a "party" under 56 Ill. Adm. Code 2720.1; and

2) The Agency failed to issue one or more of the "Notices", as set forth in subsection (a)(2); and

3) The employer has satisfied the requirements of Section 1508 of the Act; and

4) The Agency's actions directly resulted in the payment of benefits to an individual and hence caused benefit charges in accordance with the provisions of Sections 1501, 1501.1, 1502 and 1502.1 of the Act. For the purposes of this Section, the Agency's actions "directly resulted" in the payment of benefits where the Agency fails to respond to a timely, where required, notice from an employer within the time limits set in subsection (a)(2).

Example 1: The employer files a late appeal to the Referee (after expiration of the 30 day appeal period set forth by Section 800 of the Act). Even if the Agency fails to rule on the employer's appeal within 180 days from the date the appeal is filed, the employer's benefit charges will not be cancelled, as the Agency's failure to rule on an issue over which the Referee has no jurisdiction cannot "directly result" in the payment of benefits. This result would be different if the employer proves that its appeal was filed in a timely manner.

Example 2: The employer files a timely "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof to which the Agency makes no response within 180 days. Even if the claimant is found to be eligible for benefits, these benefit charges will be subject to cancellation if the other requirements of this Section are met.

f) All of the provisions of Section 1508 of the Act and Section 2725.100 of this Part, applicable to Applications for Revision of Statements of Benefit Charges and not inconsistent with the provisions of Section 1508.1 of the Act and this Section, shall apply to Applications for Cancellation of Benefit Charges under Section 1508.1 of the Act.

Example: The employer must file its timely Application for Revision of Statement of Benefit Charges in response to a Statement of Benefit Charges. If any benefit charges are allowed by the employer to become final, it cannot later request that the benefit charges be cancelled due to its subsequently meeting the requirements of Section 1508.1 of the Act.

(Source: Amended at 20 Ill. Reg. 6378, effective April 29, 1996)

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Section 2725.125 Elections to Make Payments in Lieu of Contributions and Written Notices of Termination of Election by a Nonprofit Organization or Governmental Entity

a) Elections by a nonprofit organization or governmental entity to make payments in lieu of contributions must be signed and should be made online using MyTax Illinois (mytax.illinois.gov) or on the Department form "Reimburse Benefits in Lieu of Paying Contributions", mailed to the address listed on the form.

b) A nonprofit organization or governmental entity that would like to terminate its election to be reimbursable may do so either online using MyTax Illinois or in writing, mailed to the Illinois Department of Employment Security, in care of the Revenue Division, at the address stated in 56 Ill. Adm. Code 2712.10. There is no special form needed to terminate an election to be reimbursable if submitted by mail. A notice to terminate an election to be reimbursable must be signed, whether submitted online using MyTax Illinois or by mail.

c) An application for review of a Director's order allowing or denying an election to make payments in lieu of contributions and written notices of termination of election must be signed and filed within 15 days after the date of mailing of the order and should be filed online using MyTax Illinois or in writing, mailed to the address listed on the order.

(Source: Amended at 49 Ill. Reg.11135, effective August 20, 2025)

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SUBPART C: APPEAL TO DIRECTOR'S REPRESENTATIVE

Section 2725.200 Filing Of Appeal

a) An employing unit may appeal an order or Determination and Assessment of the Director by filing a written petition. The petition must be signed and should be filed online using MyTax Illinois (mytax.illinois.gov) or at the address shown on the order or Determination and Assessment being appealed. The Petition must be filed within 20 days after the Director's order or Determination and Assessment was served on the employing unit, except for orders on application for review of rate determinations, which must be filed within 10 days after the date of service.

b) No special form is necessary to file a petition. However, in addition to the requirements of Section 2725.25, the following must be included:

1) The petition must be in writing, dated and signed; and

2) The petition must set forth the specific parts of the order or Determination and Assessment and when the employing unit disagrees and the specific legal and factual basis for that disagreement.

c) The employing unit may request a prehearing conference.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.205 Pre-Hearing Conference

a) The Director's Representative shall, on his own motion or the motion of a party, conduct a pre-hearing conference, if it expedites the hearing. The pre-hearing conference may be in person or by telephone. The Director's Representative shall make a record with all stipulations as part of the pre-hearing conference.

b) During or subsequent to the pre-hearing conference, the petitioner may move to commence the hearing in accordance with Sections 2725.215, 2725.220 or 2725.225. The record shall then be opened and petitioner's waiver of written notice shall be made on the record.

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Section 2725.210 Notice Of Hearing

a) The Agency shall schedule a hearing and written notice of the date, place and time of the hearing shall be mailed to the parties, at least 25 days prior to the scheduled hearing.

b) If the hearing is to be conducted by telephone, the notice will so inform the parties and include instructions for informing the agency of the necessary telephone numbers (see Section 2725.220). At least 20 days prior notice shall be given for a telephone hearing.

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Section 2725.215 Preparation for the Hearing

a) Each party shall appear at the hearing before the Director's Representative with such witnesses and/or documents believed necessary to establish a right to relief as set forth in the Petition.

b) The Agency shall provide to a party requiring a foreign language interpreter, at the Agency's expense, an interpreter able to translate verbatim from the witnesses' language to English and vice versa. The Director's Representative will administer an interpreter's oath to any interpreter.

c) Upon request to the Director's Representative assigned to hear the case, a party may inspect the file at a reasonable time and place. The date and name of any person inspecting the file shall be placed on the file jacket.

(Source: Amended at 33 Ill. Reg. 9641, effective July 1, 2009)

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Section 2725.220 Telephone Hearings

a) The Director's Representative has the authority to schedule a telephone hearing. Any party shall have a right not to participate in a telephone hearing, and any party electing not to participate in a telephone hearing shall be granted an in-person hearing. If a hearing is to be conducted by telephone, the notice shall so inform the parties and include instructions for providing the Agency with any necessary telephone numbers. The in-person presence of some parties or witnesses at the hearing shall not prevent the participation of other parties or witnesses by telephone.

b) A party to a telephone hearing must submit to the Director's Representative, at least 5 days before the date of the scheduled hearing, any documents that are intended to be introduced at the hearing. Copies of the documents must also be provided to any other party prior to the date of the scheduled hearing. All documents submitted to the Director's Representative will be identified on the record.

(Source: Amended at 43 Ill. Reg. 6434, effective May 14, 2019)

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Section 2725.225 Ex Parte (One Party Only) Communications

a) The Director's Representative shall not initiate ex parte communications, directly or indirectly, in any matter in connection with any substantive issue, with any interested person or party. If the Director's Representative receives any such ex parte communication, including any documents, he shall inform the other parties of the substance of any such oral communication or documents. The other party shall be given an opportunity to review any such ex parte communication.

b) Nothing shall prevent the Director's Representative from communicating ex parte about routine matters such as requests for continuances or opportunities to inspect the file, as long as all parties are informed of the substance of the ex parte communication. The date and type of communication, the persons involved and the results of such routine communications shall be part of the record.

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Section 2725.230 Subpoenas

a) The Director's Representative may issue a subpoena to compel the attendance of a witness or the production of documents when such witness or the production of documents when such witness or document has or contains relevant evidence but is not being presented by the party, witness or holder of a document. A party may also request the Director's Representative to issue a subpoena to compel the attendance of a witness or the production of documents. The request shall be either in writing or on the record and shall:

1) Identify the witness or document sought;

2) State the facts that will be proven by each witness and/or document sought.

b) The Director's Representative shall grant or deny the request, either in writing or on the record. If the Request for Subpoena is granted, the Director's Representative shall, if necessary, reschedule the hearing to a specific date. The Request for Subpoena shall be denied only if the Director's Representative finds that the evidence sought is immaterial, irrelevant or cumulative. If the Request for Subpoena is denied, the Director's Representative shall proceed to conduct the hearing, and the specific reasons for denial of the Request for Subpoena shall be made part of the record on appeal.

c) If a witness fails to obey a subpoena, the party seeking enforcement of the subpoena shall prepare an application to the circuit court of the county in which the subpoenaed witness resides requesting enforcement of the subpoena pursuant to Section 1002 of the Act and shall present the application to the Director's Representative. If satisfied that the subpoena was properly served and that the application is in proper form, the Director's Representative shall sign the application and the party seeking enforcement of the subpoena, or its attorney, may then file and prosecute the application to the circuit court. In such instance, the matter shall be contained pending the outcome of enforcement of the subpoena.

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Section 2725.232 Depositions

a) Where any hearing is pending under this Part, the Director's Representative shall order the taking of a person's deposition, specifying the subject matter to be covered, under oral examination or written questions for use as evidence at the hearing if:

1) It appears to the Director's Representative that the deposition of such person is necessary for the preservation of relevant testimony because of a substantial possibility it would be unavailable at the time of the hearing (i.e. potential witness is moving out of state, incarcerated, etc.); and,

2) Such request is made by a motion of a party who gives notice of this motion to any other parties to the issue and to the Office of Legal Counsel of the Agency.

b) The taking of depositions shall be in accordance with the rules for the taking of depositions in civil cases, and the order for the taking of a deposition may provide that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

c) Any other parties and the Agency shall have the right to confront and cross-examine any witness whose deposition is taken. The other parties and the Agency may waive such right in writing, filed with the Director's Representative.

d) Depositions shall be taken in the county of residence or of employment of the witness, as specified in Rule 203 of the Rules of the Illinois Supreme Court, unless the witness waives such right in writing.

e) Failure to obey an order for deposition shall result in the same sanctions as provided in Section 2725.230 for failure to comply with a subpoena.

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Section 2725.235 Consolidation Or Severance Of Proceedings

a) The Director's Representative shall, on his own motion or the motion of a party, consolidate hearings if he finds that hearings involve a common question of law or fact, that consolidation will expedite the hearings, and that no rights of any party will be prejudiced.

b) All parties shall be given notice of the motion to consolidate and opportunity to be heard on the motion.

c) The Director's Representative shall sever cases previously consolidated if it appears that the requirements of subsection (a) are not met.

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Section 2725.237 Adding Necessary Parties

a) The Director's Representative shall add one or more additional parties whenever he finds that it is necessary for the proper disposition of a case. Such additional party or parties shall be given reasonable notice of this action and an opportunity to be heard.

b) Example: The Director issues a Determination and Assessment based on a finding that Employer A has failed to report and pay contributions on wages that it paid to Mr. Smith. Employer A contends that it did not employ Mr. Smith but that he was employed instead by Employer B. Employer B, which has a lower contribution rate than Employer A, reported the wages of Mr. Smith and paid contributions on those wages so that it is not possible to make a Determination and Assessment against Employer B and then to consolidate the cases. If the Director's Representative finds that it is necessary for the proper disposition of the case, he shall add Employer B as a party, and Employer B shall be given reasonable notice and an opportunity to be heard.

c) Whenever an employing unit believes that it should be added as an additional party in a case pending before the Director's Representative but the Director's Representative has not done so, it shall file a Motion to Intervene. Such Motion shall include arguments in support of such Motion. If the Director's Representative finds that the addition of the employing unit is necessary for the proper disposition of the case, it shall be added as a party. If the Director's Representative finds that the addition of the employing unit is not necessary for the proper disposition of the case, the Motion shall be denied and the reasons therefor noted in the record.

(Source: Added at 16 Ill. Reg. 113, effective December 23, 1991)

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Section 2725.240 Withdrawal Of Petition For Hearing

The employer may voluntarily withdraw his petition by filing a signed written statement with the Director's Representative or by oral statement on the record. Any other parties will receive notice of the withdrawal.

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Section 2725.245 Continuances

All requests for continuances of hearings or pre-hearing conferences must be either in writing or on the record and must set forth the reasons for such request. The Director's Representative to whom the matter was assigned, or the supervisor if the Director's Representative is not available, shall grant a continuance for good cause shown, such as the unavailability of a witness or a party due to accident, illness or circumstances beyond the person's control. In that event, the hearing will be rescheduled to the earliest mutually agreeable time and date and the agency will inform all parties of the date and time of the rescheduled hearing.

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Section 2725.250 Conduct of Hearing

a) The Director's representative will control the hearing, which will be confined to the relevant factual and/or legal issues.

b) At the hearing, the petitioning employer must produce testimony, argument or other evidence to establish that the Director's order or Determination and Assessment is incorrect.

c) Following the testimony of each witness, the witness may be questioned and cross-examined by the opposing party, if any, and then may be questioned and cross-examined by the Director's representative or any other employee of the Department as the Director may designate.

d) It is the duty of the Director's representative to ensure that the party or parties, as appropriate, have full opportunity to present all evidence relevant to the issues before the Director's representative.

e) If any person becomes disruptive or abusive, the Director's representative shall exclude that person from the hearing and the hearing will continue without the participation of the excluded individual. The Director's representative shall render a decision based on all evidence in the record.

f) The Director shall prohibit any person from representing a party in any proceeding under this Part if the Director finds that the person is or has been guilty of violating the Code of Professional Responsibility or Article 8 of the Rules of the Illinois Supreme Court, or has intentionally disregarded the provisions of the Act, rules promulgated under the Act, or written instructions of the Director. The prohibition shall be in writing and shall be applicable for a period not to exceed 120 days after the date the decision is mailed to the party.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

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Section 2725.255 Rules of Evidence

The rules of evidence as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40] shall apply. The Director's Representative need not rule on any objection to the introduction of evidence or testimony, but any such objection shall be duly noted and made part of the record.

(Source: Amended at 35 Ill. Reg. 6129, effective March 25, 2011)

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Section 2725.260 Oral Argument-Memoranda-Post Hearing Documents

a) The Director's Representative shall give each party an opportunity to present oral argument after the evidentiary hearing has been concluded.

b) The Director's Representative shall, either on the record or in writing, if necessary to clarify the issues, require any party to file a memorandum. A party at the conclusion of the hearing may file, either in writing or on the record, a notice of intent to file a memorandum in support of its position. Such memorandum shall include proposed findings of fact and conclusions of law, and the Director's Representative shall set a reasonable schedule for filing any memoranda. Each party filing such memoranda shall furnish a copy thereof to all other parties, at the time of such filing.

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Section 2725.265 The Record

A complete record shall be kept of all proceedings before the Director's Representative, which shall include all items required by Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35].

(Source: Amended at 35 Ill. Reg. 6129, effective March 25, 2011)

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Section 2725.270 Recommended Decision

a) The Director's Representative shall issue a recommended decision without a hearing when:

1) The Record fails to state a basis for relief under the facts stated or the law;

2) The Petition or revised Petition, Application for review of rate determination, Application for revision of statement of benefit charges, or Claim for refund or adjustment was not filed in a timely manner as provided for in the Act and no issues relating to timeliness have been raised by the petitioner.

b) The Director's Representative, at the conclusion of the hearing, or upon the failure of an appealing party to appear at a scheduled hearing or failure of that party to provide any necessary telephone number or to answer at a designated telephone number at the time of the scheduled hearing as provided in Section 2725.220, shall submit his or her recommended decision to the Director. The recommended decision shall include:

1) A statement of issues involved;

2) Findings of fact;

3) Conclusions of law;

4) A recommended decision.

c) A copy of the recommended decision shall be served upon all parties.

d) The recommended decision shall become the decision of the Director unless objections are filed to the recommended decision in accordance with Section 2725.275.

(Source: Amended at 43 Ill. Reg. 6434, effective May 14, 2019)

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Section 2725.275 Objections to Recommended Decision

a) Any party shall have the right to file objections to a recommended decision within 20 days after the service of the recommended decision. The objections shall also be served upon the other parties, if any.

b) Objections to a recommended decision shall be sufficient only if they set forth specifically and in detail a basis for relief. Failure to file or set forth an objection in accordance with this Section shall be deemed a waiver of the objection.

c) If the employer failed to appear at the hearing before the Director's Representative or failed to provide any necessary telephone numbers at the time of the scheduled hearing as provided in Section 2725.220 and the employer wants a hearing, he or she must file his or her objections and the facts that show the failure to appear, provide the telephone number or answer the telephone was caused by reasons outside of his or her control, or by circumstances that could not be reasonably foreseen and avoided and that there is a likelihood that a hearing on the merits would result in the relief sought.

d) If an employer receives a recommended decision pursuant to Section 2725.270(a), the employer may also demand a hearing before the Director's Representative to orally present objections. A hearing will be scheduled and shall be limited to the issues set forth in the recommended decision and the objections filed.

e) Upon written request or oral request on the record, within 10 days after service of the recommended decision, the employer shall be granted one 10 day extension of the time for filing objections. Notice of the request must be served upon the other parties, if any.

(Source: Amended at 43 Ill. Reg. 6434, effective May 14, 2019)

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Section 2725.280 Decision Of Director

a) After review of the objections to the recommend decision, the Director shall make his decision and serve notice thereof on the party or parties thereto.

b) The Director may, after review of the objections to the recommended decision, order that a matter be remanded to the Director's Representative for rehearing or to take additional testimony whenever the Director believes that there is a basis for relief as provided in this Part or that the record is incomplete.

c) The Director shall issue a decision at any stage of the proceedings where it appears from the pleadings, the Agency file and other matters of record that a decision awarding all the relief sought by the petitioner should be issued and a hearing on the merits would be unnecessary; provided, however, that such a decision shall not be issued if there are other parties who would be denied due process by the lack of notice and the opportunity to be heard.

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SUBCHAPTER b: COVERAGE OF UNEMPLOYMENT INSURANCE ACT
PART 2730 WAGES
SUBPART B: OTHER REMUNERATION TREATED AS WAGES

Section 2730.100 Money Value of Board And Lodging, Etc.

a) Except as otherwise provided in this Section, board, lodging or other remuneration in kind received by an individual from his employer for personal services performed by the individual for the employer shall be deemed to be wages paid by the individual's employer. Meals which are given for the convenience of the employer are not remuneration for the performance of personal services and, therefore, are not wages. Meals that are given for the convenience of the employer must be furnished for substantial non-compensatory business reasons rather than as additional compensation to the worker. When the meal is served at the location where the services are performed, it is presumed that the meal is for the benefit of the employer. When the meal is served at a location other than where the service is performed, it is presumed that the meal is not for the benefit of the employer.

1) Example: An individual performs services at a restaurant. The employer does not want the worker to bring food from another restaurant to eat at his establishment. Meals are provided to the worker as a convenience for the employer and, therefore, are not remuneration to the worker for his services. Under such circumstances, the value of the meal is not deemed to be wages.

2) An employer provides ambulance services and always needs to have drivers ready for emergencies. Meals are provided at the dispatch terminal so that drivers will always be available. Under such circumstances, the value of the meals are not deemed to be wages.

3) Whenever a worker is required to work past seven o'clock in the evening, the employer reimburses the worker for her dinner. If the worker has the option of leaving the location where the work is performed for dinner, it is presumed that this meal is not for the benefit of the employer.

4) Whenever a worker is required to work past seven o'clock in the evening, the employer orders dinner brought in for the worker. It is presumed that this meal is for the benefit of the employer.

b) The money value of the remuneration in kind received by the individual shall be the fair market value of such remuneration. "Fair market value" is the cash value of the remuneration which would be reached between a willing buyer and a willing seller. The Director has the authority to determine or approve the fair market value of the remuneration in kind received by the individual, and this value shall be used in determining the wages paid to the individual and in computing contributions due under the Unemployment Insurance Act [820 ILCS 405], hereinafter referred to as "the Act".

c) Where a money value for board, lodging or other remuneration in kind furnished an individual by an employer is agreed upon in a contract of hire, this agreed on amount shall be deemed the fair market money value of such remuneration unless this amount is less than the fair market money value specifically determined by the Director under subsection (b) above.

(Source: Amended at 18 Ill. Reg. 14958, effective September 27, 1994)

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Section 2730.105 Reporting Gratuities

a) Each employer who employs individuals who customarily receive gratuities from persons other than the employer in the course of their work with the employer shall inform, either orally or in writing, all those individuals of their duty to report currently the amount of the gratuities to the employer, and post a notice, issued by the Director, which may be conveniently read (such as on the employer's bulletin board) by all such individuals. The notice shall be procured by an employer from the Director.

b) Each individual who customarily receives gratuities in the course of his or her work from persons other than his or her employer shall, on the day he or she is paid wages for a pay period by his or her employer, or not later than the next succeeding pay day, submit a written statement or form, in duplicate, to his or her employer concerning the amount of gratuities received during the pay period.

c) The statement or form referred to by subsection(b) shall contain the information required to be listed under Section 6053(a) of the Internal Revenue Code of 1954 (26 USC 1 et seq.). Each employer shall acknowledge the receipt of the statement or form on the duplicate copy and return the copy to the individual, who shall retain it as evidence of the fact that he or she has reported gratuities in accordance with the requirements of this Section. The employer shall retain each original statement or form for a period of three years.

d) Each employer shall include in its regular monthly or quarterly reports, as the case may be, to the Director the amount of gratuities reported to it by each individual under subsection (b); provided, however, that in the event the employer shall deem the amount so reported by the individual to be in excess of the amount of gratuities actually received by the individual, the employer shall attach to its monthly or quarterly report a statement indicating the amount reported by the individual, the amount reported by the employer, the difference between those amounts, and the basis for the employer's belief that the differences were not actually received by the individual.

e) If, for any reason, the employer fails to obtain from the individuals in its employ the amount of gratuities received by such individuals, the employer shall estimate the amounts of such gratuities. The employer shall estimate the amount of the gratuities as the greater of 8% of the gross receipts for service provided by the individual or the applicable federal minimum wage (29 USC 206 et seq.) times the number of hours worked by the individual.

(Source: Amended at 37 Ill. Reg. 7432, effective May 14, 2013)

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Section 2730.130 Liability for Contributions and Reporting of Sick Pay

a) Sick pay is any amount paid to an employee for any period during which the employee is temporarily absent from work because of injury, sickness, or disability. Except as provided in subsection (b), sick pay paid with respect to employment by employers and third parties is wages under Sections 234 and 235 of the Act and subject to the payment of contributions. Determination of the individual or entity liable for reporting wages and paying contributions on sick pay depends on whether the sick pay is paid by the employer, by an agent of the employer, or by a third party that is not the employer's agent. Except as provided in subsection (d), the entity or individual who pays the sick pay is responsible for reporting those payments as wages and paying contributions to the Department.

b) The following payments, made to, or on behalf of, an individual or any of his or her dependents under a plan or system established by an employer that makes provision generally for individuals performing services for him or her (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), are not "wages" subject to the payment of contributions:

1) payments made under a workers' compensation law;

2) payments made on account of medical or hospitalization expenses in connection with sickness or accident disability;

3) payments made on account of death;

4) payments made on account of sickness or accident disability made by an employer to or on behalf of an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer.

c) If an employee receives a payment on account of sickness or accident disability that is not made under a workers' compensation law or a statute in the nature of a workers' compensation Act, the payment is not excluded from "wages" even if the payment must be repaid if the employee later receives a workers' compensation award or an award under a statute in the nature of a workers' compensation Act with respect to the same period of absence from work.

d) Except when the payments do not constitute "wages" (see subsection (b)), and except as provided in subsection (e), a third party payor is the employer for purposes of reporting wages and paying contributions, unless all of the conditions in subsections (d)(1) through (4) are met.

1) The last employer for whom the individual worked prior to becoming sick or disabled or for whom the individual was working at the time the individual became sick or disabled made contributions on behalf of the individual to the plan or system under which the individual is paid.

2) There is an agreement between the third party payor and the employer that the employer will be required to report the wages and pay the contributions.

3) The third party payor notifies the employer at least six working days prior to the end of the month following the preceding calendar quarter (or the preceding month in the case of an employer subject to 56 Ill. Adm. Code 2760.125(a)(1)) of the Social Security account numbers, employee names, and

amount of sickness or accident disability payments made during the month or calendar quarter, as the case may be.

A) For the purposes of determining timeliness of the notice, the provisions of 56 Ill. Adm. Code 2765.60 shall apply;

B) A notification that contains the required information and that has been made by a third party to an employer, as required by the Federal Insurance Contributions Act (26 USC 1501 et seq.) will be sufficient notification under this Part.

4) The employer reports the wages pursuant to Section 2760.125, and includes the wages in the calculation and payment of contributions.

e) A third party making a payment on account of sickness or accident disability to an individual as agent for the employer or making such a payment directly to the employer shall not be treated as the employer with respect to the payments unless the agency agreement so provides. The determining factor as to whether a third party is an agent of the employer is whether the third party bears any insurance risk.

1) If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party is an agent of the employer even if the third party is responsible for making determinations of eligibility of the individual employees of the employer for payments on account of sickness and accident disability.

2) If the third party is paid an insurance premium and not reimbursed on a cost plus fee basis, the third party is not an agent of the employer, but the third party is treated as the employer, as provided in subsection (d).

f) For purposes of subsection (b), a dependent of an individual is the individual's husband or wife, children and any other member of the individual's immediate family as defined in 18 USC 115(c)(2).

g) Except for any wages paid to an individual for services actually performed in employment of the third party payor, a third party payor that is liable for purposes of reporting wages and paying contributions for payments made on account of sickness and accident disability is not the last 30-day chargeable employer for purposes of Section 1502.1 of the Act.

(Source: Amended at 43 Ill. Reg. 6442, effective May 14, 2019)

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Section 2730.150 Payments Under A Cafeteria Plan

Payments which are not taxable for federal income tax purposes as part of a cafeteria plan established under Section 125 of the Internal Revenue Code of 1986 are not included in "wages", as defined in Section 234 of the Act (Ill. Rev. Stat. 1989, ch. 48, par. 344), to the extent that (1) the benefit chosen under the plan is specifically excluded under Section 235 of the Act (Ill. Rev. Stat, 1989, ch. 48, par. 345) and (2) under Section 245(C) of the Act (Ill. Rev. Stat. 1989, ch. 48, par. 370(C)) the benefit is not includable in the term "wages" subject to the payment of taxes under the Federal Unemployment Tax Act (FUTA).

a) Example: Payments made under a plan established by an employer generally for individuals in its employ to provide for the payment of medical insurance premiums which would not be includable in gross income for federal income tax purposes under Section 125 of the Internal Revenue Code of 1986 are not includable as wages because there is a specific exclusion in Section 235 of the Act for payments on account of medical or hospitalization expenses in connection with sickness or accident disability and such payments are not subject to the payment of taxes under FUTA.

b) Example: Payments made under a plan established by an employer generally for individuals in its employ to provide for the payment of life insurance premiums which would not be includable in gross income for federal income tax purposes under Section 125 of the Internal Revenue Code of 1986 are not includable as wages because there is a specific exclusion in Section 235 of the Act for payments on account of death and such payments are not subject to the payment of taxes under FUTA.

c) Example: Payments made under a plan established by an employer generally for individuals in its employ to provide for the payment of dependent care assistance which would not be includable in gross income for federal income tax purposes under Section 125 of the Internal Revenue Code of 1986 are includable as wages because there is no specific exclusion in Section 235 of the Act for payments on account of dependent care assistance even though they are not subject to the payment of taxes under FUTA.

(Source: Added at 15 Ill. Reg. 16964, effective November 12, 1991)

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Section 2730.155 Payments Under A Plan Authorized By Section 401(k) of the Internal Revenue Code of 1986

Payments not taxable for income tax purposes under Section 401(k) of the Internal Revenue Code of 1986 are included in "wages", as defined in Section 234 of the Act. Amounts deducted from an individual's taxable income pursuant to salary reduction arrangements, as well as employer contributions, are also "wages".

(a) Example: An individual is entitled to $1,000 in salary. It is agreed between the employer and the individual that $50 of his salary is to be placed in the employer's 401(k) plan fund, and the individual is paid cash of $950. The 401(k) plan does not provide for employer contributions. The individual's "wages" under Section 234 of the Act are $1,000.

(b) Example: An individual is entitled to $1,000 in salary. It is agreed between the employer and the individual that $50 is to be placed in the employer's 401(k) plan fund, and the individual is paid cash of $950. In addition to the aforementioned arrangement, the employer makes a contribution of $50 to the fund on behalf of the individual. The individual's "wages" under Section 234 of the Act are $1,050.

(Source: Added at 15 Ill. Reg. 16964, effective November 12, 1991)

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SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS
PART 2732 EMPLOYMENT
SUBPART A: COVERAGE

Section 2732.125 Requirement That "Four Or More" Employees of a Nonprofit Organization Perform Services Within This State

In applying Section 211.2 of the Act [820 ILCS 405], only individuals performing services in this State shall be included in determining whether the nonprofit organization has had four or more individuals in employment.

EXAMPLE: Organization X is a nonprofit organization, as defined in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from income tax under section 501(a) of that Code. It maintains its national headquarters in Madison, Wisconsin, where it employs 10 persons. It also maintains a branch office in Chicago, where it employs one worker. The services of the one worker in Chicago shall not constitute employment in Illinois because this organization does not have 4 or more individuals in employment in Illinois.

(Source: Amended at 43 Ill. Reg. 6449, effective May 14, 2019)

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SUBPART B: SERVICES IN EMPLOYMENT

Section 2732.200 Section 212 of the Act – Services in Employment

a) In determining whether services performed by an individual for an employing unit are employment, as defined by Section 212 of the Unemployment Insurance Act (the Act) [820 ILCS 405/212], the Agency shall, when applicable to a particular factual situation:

1) Review written agreements between the individual and the employing unit;

2) Interview the individual or employing unit;

3) Obtain statements of other persons with relevant information;

4) Examine regulatory statutes governing the organization, trade or business;

5) Examine the books and records of the employing unit; and

6) Make any other investigation necessary to make a determination.

b) The Agency will apply the exceptions specified in the Act to the facts as they exist, and the designation or description which the parties apply to their relationship is not controlling.

c) The mechanics of compensation are not controlling and the fact that an individual is compensated by commission or any payment other than salary does not preclude a determination that the individual is in employment under the Act.

d) The exceptions in Section 212 of the Act are conjunctive, and all three must be proven by the employer to establish the exemption.

e) "Engaged in an independently established trade, occupation, or business" within the meaning of Section 212(C) of the Act means that the individual has a proprietary interest in the business that he or she can sell, give away or operate without hinderance from any other party. While no one factor will determine if an individual is engaged in an independently established trade, occupation, profession or business as set out in Section 212(C) of the Act, the business reality or totality of circumstances will determine the presence of this condition. The following types of factors indicate that the individual is engaged in an independently established trade, occupation, profession, or business, as set out in Section 212(C) of the Act:

1) The individual's interest in the business is not subject to cancellation or destruction upon severance of the relationship;

2) The individual has an investment of capital and owns the capital goods of the business enterprise;

3) The individual gains the profits and bears the losses of the business enterprise;

4) The individual makes his or her services available to the general public or the business community on a continuing basis;

5) The individual includes the individual's services on a Federal Income Tax Schedule as an independent business or profession;

6) The individual performs services for the employing unit under his or her own business name;

7) The individual has a shop or office of his or her own;

8) The employing unit does not represent the individual as an employee of the firm to its customers;

9) The individual hires his or her own helpers or employees, without the employing unit's approval, pays them without reimbursement from the employing unit, and reports their income to the Internal Revenue Service;

10) The individual has an account number with the Agency and reports the wages of his or her workers monthly or quarterly, as the case may be, to the Agency;

11) The individual has the right to perform similar services for others on whatever basis and whenever he or she chooses;

12) The individual maintains a business listing in the telephone directory or in appropriate trade journals;

13) If the services require a license, the individual has obtained and paid for the license in his or her own name.

f) The two factors in Section 212(B) of the Act are in the alternative. Section 212(B) of the Act is satisfied if the service is either outside the usual course of business of the employing unit or performed outside of all the places of business of the employing unit:

1) Services that merely render the place of business more pleasant or are not necessary to the employing unit's business are outside the usual course of business.

EXAMPLE: The services of a window washer engaged by an employing unit whose business is selling woolens are outside the usual course of the business of the employing unit.

2) Because services are performed outside the employing unit's premises does not preclude an individual from being found to be in employment. This decision is based upon the occupation and the factual context in which the services are performed.

A) EXAMPLE: The homes of typists who are typing manuscripts for an employing unit are places of business of the employing unit.

B) EXAMPLE: Any territory in which a salesman represents his or her employing unit's interests is the employing unit's place of business.

g) "Direction or control" within the meaning of Section 212(A) of the Act means that an employing unit has the right to control and direct the worker, not only as to the work to be done but also as to how it should be done, whether or not that control is exercised. The following are illustrative of the types of questions the Department will examine to determine whether "direction or control" exists. The type of business

subject to review and the relationship being examined will determine which questions are asked in any given review under this Section. No one question or answer or combination of questions and answers will determine whether direction or control exists but rather the business reality or totality of circumstances will determine if direction or control exists:

1) Does the employing unit issue assignments or schedule work, set quotas or time requirements;

2) Does the employing unit have the right to change the methods used by the worker in performing his or her services;

3) Does the employing unit require the worker to follow a routine or schedule;

4) Does the employing unit require the worker to report to a specific location and/or at regular intervals;

5) Does the employing unit require the worker to furnish a record of his or her time to the firm;

6) Does the employing unit require the worker to perform services a specific number of hours per day or per week;

7) Does the employing unit engage the worker on a permanent basis;

8) Does the employing unit reimburse the worker for expenses incurred;

9) Is the worker eligible for a pension, a bonus, paid vacation or sick pay;

10) Does the employing unit carry workers' compensation insurance on the worker;

11) Does the employing unit deduct Social Security tax from the worker's compensation;

12) Does the employing unit report the worker's income to the Internal Revenue Service on Form W-2;

13) Does the employing unit bond the worker;

14) Does the employing unit furnish the worker with materials and supplies, tools or equipment;

15) Does the employing unit furnish the worker with transportation, samples, a drawing account, business cards, an expense account, or order blanks;

16) Does the employing unit allow the worker to sell noncompetitive lines or engage in other employment;

17) Does the employing unit restrict the worker in terms and conditions of sale and choice of customers;

18) Does the employing unit assign or limit the territory in which the individual performs;

19) Does the employing unit set the price and credit terms for the products or service;

20) Does the employing unit reserve the right to approve orders or contracts;

21) Does the employing unit have a right to discharge;

22) Does the employing unit require attendance at meetings or training courses;

23) Does the employing unit have the right to appoint the individual's supervisors;

24) Does the employing unit have the right to set rules and regulations;

25) Does the employing unit purport to guarantee the product or service performed;

(Source: Amended at 37 Ill. Reg. 7440, effective May 14, 2013)

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Section 2732.203 The Effect Of Regulation By A Governmental Entity On "Direction Or Control" Under Section 212 Of The Act

In determining whether direction or control exists, the Agency shall consider the factors set forth in Section 2732.200. Regulation or licensing of a person, organization, trade or business by a governmental entity or use of the terms "direction" and/or "control" in a regulatory or licensing requirement shall not, by operation of law or "per se", constitute a showing of "direction or control" for the purpose of Section 212 of the Act or Section 2732.200(g).

(Source: Amended at 16 Ill. Reg. 8173, effective May 18, 1992)

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Section 2732.205 Owner-Operators of Motorized Vehicles

a) Section 212.1 of the Act [820 ILCS 405] applies only to services performed on or after August 8, 1995.

b) The burden of proving that services are exempt, under Section 212.1, from the Act's definition of "employment" rests with the person or entity to which the individual is contracted to perform the services.

c) Section 212.1 applies only to services an individual performs as an operator of a truck, truck-tractor or tractor.

EXAMPLE: Smith performs services for Company A, which is licensed by the Illinois Commerce Commission as a motor carrier of personal property. These services consist entirely of loading and unloading trucks at Company A's loading dock. Section 212.1 of the Act does not exempt Smith's services for Company A from the Act's definition of "employment".

d) For purposes of applying Section 212.1:

1) "Truck" has the meaning ascribed to it in Section 1-211 of the Illinois Vehicle Code [625 ILCS 5].

2) "Truck-tractor" has the meaning ascribed to it in Section 1-212 of the Illinois Vehicle Code.

3) "Tractor" has the meaning ascribed to "road tractor" in Section 1-178 of the Illinois Vehicle Code.

4) "Family member" means any parent, sibling, child, sibling of a parent, or any of the foregoing relations by marriage or civil union.

5) A person or entity owns, controls or operates another entity when:

A) by virtue of its ownership interest in that other entity, it has the power to direct the management of the other entity;

B) by virtue of its ownership interest in that other entity combined with the ownership interest of one or more others, it actually directs, by itself or in conjunction with others, the management of the other entity; or

C) it has responsibility for overseeing the day-to-day operations of that other entity.

6) Ownership, control or operation may be through any one or more natural persons or proxies, powers of attorney, nominees, proprietorships, partnerships, associations, corporations, trusts, joint stock companies or other entities or devices or any combination of these.

7) "Person or entity" means a sole proprietorship, partnership, association, corporation or any other legal entity.

8) A requirement imposed by a governmental regulatory or licensing agency with respect to services an individual performs as an operator of a truck, truck-tractor or tractor is not a requirement imposed on the individual by any person or entity to which the individual is contracted to perform the services.

e) Section 212.1(a)(1) of the Act
Section 212.1(a)(1) is not satisfied unless:

1) The services are performed by an individual who is registered or licensed as a motor carrier of real or personal property by the Illinois Commerce Commission, US Department of Transportation, or any successor agencies; or

2) Both:

A) The individual performing the services is doing so under an owner-operator lease contract; and

B) The person or entity with which the individual is contracted to perform the services is registered or licensed as a motor carrier of real or personal property by the Illinois Commerce Commission, US Department of Transportation, or any successor agencies.

EXAMPLE: Jones, who owns her own pickup truck, works for ABC Hardware Store. As part of the regular course of Jones' work for ABC, she uses her pickup truck to make deliveries to customers. Neither Jones nor ABC is licensed or registered as a motor carrier of property. Section 212.1 of the Act does not exempt the delivery services Jones performs for ABC from the Act's definition of "employment."

f) Section 212.1(a)(2) of the Act
Section 212.1(a)(2) is not satisfied unless both subsections (f)(1) and (2) of this Section are satisfied.

1) The individual performing the services must be able, with reasonable notice if required by the contract, to terminate the lease contract with the person or entity to which the individual is contracted to perform the services, prior to the termination date specified in the contract, without incurring any legal or equitable liability to that person or entity other than liability for damage to the property being carried or damage or injury caused as a result of the operation of the truck, truck-tractor or tractor.

A) EXAMPLE: The lease contract between Smith and Motor Carrier A extends from January 1, 1997 through June 30, 1997 and provides that Smith's terminating the contract prior to June 30, 1997, under any circumstances, will result in Smith's being liable for liquidated damages determined according to a formula specified in the contract. Section 212.1 of the Act does not exempt the services Smith performs pursuant to the contract from the Act's definition of "employment" because Smith does not have the right to terminate the contract as contemplated by Section 212.1(a)(2) of the Act.

B) EXAMPLE: The lease contract between Jones and Motor Carrier C extends from January 1, 1997 through June 30, 1997, but provides that Jones may terminate the lease contract prior to June 30, 1997, without incurring any liability to C other than liability for damage to the property being carried or damage or injury caused as a result of the operation of Jones' truck, on the condition that Jones provides C with reasonable notice of termination. If Jones terminates the contract without providing C with reasonable notice, Jones will be liable for liquidated damages determined in accordance with a formula specified in the contract. Under these facts, absent any other evidence that indicates C has failed to satisfy the requirements of subsections (e) through (k), the services Jones performs for C are exempt from the Act's definition of "employment".

2) Following the termination of the lease contract, the individual must be able to perform the same or similar services for others, on whatever basis and whenever he or she chooses, without incurring any legal or equitable liability to the person or entity to which the individual was contracted to perform the services under the terminated lease contract.

EXAMPLE: The lease between Davis and Motor Carrier B provides that, upon termination of the contract, Davis shall not, for a period of six months, perform services as an operator of a truck, truck-tractor or tractor for any other motor carrier located within a 90-mile radius of B's main office. The provision is enforceable by injunction. Section 212.1 of the Act does not exempt the services Davis performs pursuant to the contract from the Act's definition of "employment".

g) Section 212.1(a)(3) of the Act

Section 212.1(a)(3) is not satisfied unless the person or entity to which the individual is contracted to perform the services imposes no requirements on the individual to perform the services, or be available to perform the services, at a specific time or times, according to a specific schedule or for a specified number of hours. The person or entity is not considered as having imposed such a requirement when the person or entity informs the individual performing the services of a pickup or delivery time specified by the shipper or receiver of the property to be transported.

1) EXAMPLE: Adams telephones Motor Carrier A at 8:00 A.M. each day Adams is available to provide truck driving services to see whether A has any work for Adams. After being informed that there is work, Adams must make himself available to perform the work by 9:00 A.M. If Adams fails to make himself available by 9:00 A.M., Motor Carrier A will enter a demerit on his personnel records. If Adams accumulates five demerits during a year, Motor Carrier A will terminate its relationship with Adams. Section 212.1 of the Act does not exempt the services Adams performs for Motor Carrier A from the Act's definition of "employment".

2) EXAMPLE: Motor Carrier B telephones Smith in each of five consecutive weeks to offer Smith work providing truck driving services for B. Each time, Smith indicates he is not interested. B does not contact Smith after that. By itself, B's decision not to attempt to do further business with Smith, an individual who has consistently refused B's offers of work, is not evidence that B has imposed any requirements on Smith to perform services, or be available to perform services, at a specific time or times, according to a specific schedule or for a specified number of hours.

3) EXAMPLE: ABC Produce Company has contracted with XYZ Trucking Company to deliver produce to various wholesalers every Tuesday, Thursday and Saturday; ABC has instructed XYZ the produce must be delivered to each wholesaler no later than 4 A.M. Jones is to perform the services for XYZ as the operator of a truck, transporting produce from ABC. XYZ informs Jones of the 4 A.M. deadline imposed by ABC. It is understood that Jones' failure to meet the deadline may jeopardize his ability to drive for XYZ again. The deadline was specified by the shipper. The fact that a carrier may be reluctant to transact future business with a driver who has failed to meet the shipper's deadline does not, by itself, indicate the carrier has failed to satisfy Section 212.1 of the Act. Under these facts, absent any other evidence that indicates XYZ has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services Jones performs for XYZ are exempt from the Act's definition of "employment".

4) EXAMPLE: White operates a truck for the ABC Produce Company. ABC instructs White that produce picked up from ABC's terminal must be delivered to XYZ Wholesaler by 4 A.M. on the

delivery date. It is understood that White's failure to meet the deadline may jeopardize his ability to drive for ABC again. The fact that ABC may be reluctant to transact future business with a driver who has failed to meet the delivery time ABC, as the shipper, has specified does not by itself indicate ABC has failed to satisfy Section 212.1 of the Act. Under these facts, absent any other evidence that indicates ABC has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services White performs for ABC are exempt from the Act's definition of "employment".

5) EXAMPLE: Under a contract between Reynolds and ABC Construction Company, Reynolds is to deliver asphalt to a specified ABC construction site at 8 A.M. on the designated day. Timely delivery of asphalt will require Reynolds to pick up the asphalt from the location specified by ABC no later than 7 A.M. It is understood that Reynolds' failure to pick up and deliver the asphalt on time may jeopardize his ability to drive for ABC again. The fact that ABC may be reluctant to transact future business with a driver who has failed to meet the pickup and delivery times ABC, as the receiver, has specified does not, by itself, indicate ABC has failed to satisfy Section 212.1 of the Act. Under these facts, absent any other evidence that indicates ABC has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services Reynolds performs for ABC are exempt from the Act's definition of "employment".

h) Section 212.1(a)(4) of the Act
Section 212.1(a)(4) is not satisfied unless:

1) the individual performing the services leases or holds title to the truck, truck-tractor or tractor; and

EXAMPLE: Smith operates a truck for ABC Trucking Company. ABC holds title to the truck. Section 212.1 of the Act does not exempt the services Smith performs for ABC from the Act's definition of "employment".

2) the individual or entity from which the truck, truck-tractor or tractor is leased or that holds a security or other interest in the truck, truck-tractor or tractor is not:

A) the person or entity to which the individual operating the truck, truck-tractor or tractor is contracted to perform the services; or

B) owned, controlled or operated by or in common with, to any extent, directly, or indirectly, the person or entity to which the individual operating the truck, truck-tractor or tractor is contracted to perform the services or a family member of a shareholder, owner or partner of the person or entity with which the individual is contracted to perform the services.

i) EXAMPLE: Adams operates a truck for XYZ Trucking Company, a corporation in which Jones is the majority shareholder. While Adams holds title to the truck, ABC Trucking Company, of which Jones is the sole proprietor, holds a lien on Adams' truck. Section 212.1 of the Act does not exempt the services Adams performs for XYZ from the Act's definition of "employment", since ABC is owned or controlled in common with XYZ.

ii) EXAMPLE: Madison operates a truck for XYZ Trucking, a corporation in which Jefferson is a 5% shareholder. Madison holds title to the truck, but ABC Finance Company, which is managed by the brother of Jefferson's father-in-law, holds a lien on the truck. Section 212.1 of the Act does not exempt the services Madison performs for XYZ from the Act's definition

of "employment", since the individual who operates ABC is a family member of a shareholder of XYZ.

iii) EXAMPLE: ABC Trucking Company, a corporation, is being audited by the Department to determine, among other items, whether services that Jones provided for ABC were "employment" for purposes of the Act. ABC demonstrates that Jones held title to the truck he operated in service to ABC while he was performing the services for ABC. ABC also provides a written statement, signed by an owner or officer of ABC and attesting that the owner or officer has made reasonable inquiries into the matter and, to the best of the owner's or officer's knowledge, while Jones was performing the services for ABC, ABC did not have any interest in Jones' truck; no individual or entity that might have held an interest in Jones' truck was owned, controlled or operated by or in common with, to any extent, directly or indirectly, ABC; and no individual or entity that might have held an interest in Jones' truck was owned, controlled or operated by or in common with, to any extent, directly or indirectly, a family member of a shareholder of ABC. The auditor is not aware of any evidence that contradicts the written statement. These facts indicate that Section 212.1(a)(4) of the Act is satisfied with respect to the services Jones performed for ABC.

i) Section 212.1(a)(5) of the Act

1) Section 212.1(a)(5) is not satisfied unless the individual operating the truck, truck-tractor or tractor pays all costs of licensing and operating the truck, truck-tractor or tractor. Section 212.1(a)(5) is not satisfied if the costs of licensing or operating the truck, truck-tractor or tractor are separately reimbursed by an individual or entity other than the individual operating the truck, truck-tractor or tractor. Costs not directly associated with the operation or licensing of the truck, including but not limited to telephone charges, expenses related to the loading or unloading of cargo and workers' compensation premiums with respect to the operator of a truck, truck-tractor or tractor do not constitute costs of licensing or operating the truck, truck-tractor or tractor.

A) EXAMPLE: Smith operates a truck for ABC Trucking Company. At the end of each week in which Smith has performed services for ABC, the company furnishes Smith a check, accompanied by a statement itemizing the licensing and operational expenses for which Smith is being reimbursed, including wear and tear on Smith's truck. Section 212.1 of the Act does not exempt the services Smith performs for ABC from the Act's definition of "employment".

B) EXAMPLE: Adams operates a truck for XYZ Trucking Company, which furnishes Adams with a company debit card Adams may use to purchase fuel. XYZ covers all approved charges against the debit card and does not charge them back to Adams. Section 212.1 of the Act does not exempt the services Adams performs for XYZ from the Act's definition of "employment".

C) EXAMPLE: Jones operates a truck for XYZ Trucking Company. At the end of each week in which Jones has performed services for XYZ, the company furnishes Jones with a check. Jones deposits a portion of the payment received from XYZ in a checking account she maintains to cover the costs of operating the truck. Under these facts, absent any other evidence that indicates that XYZ has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services Jones performs for XYZ are exempt from the Act's definition of "employment".

D) EXAMPLE: Reynolds operates a truck for ABC Trucking Company. At the end of each week in

which Reynolds has performed services for ABC, the company furnishes Reynolds with a check, based on a flat per mile fee. There is no indication that any portion of the fee is intended as a separate reimbursement to cover any costs directly associated with operating or licensing Reynolds' truck. Under these facts, absent any other evidence that indicates that ABC has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services Reynolds performs for ABC are exempt from the Act's definition of "employment".

E) EXAMPLE: Smith operates a truck for ABC Construction Company. At the end of each week in which Smith has performed services for ABC, the company furnishes Smith with a check, based on an hourly fee for his services. There is no indication that any portion of the check is intended as a separate reimbursement to cover any costs directly associated with operating or licensing Smith's truck. Under these facts, absent any evidence that indicates ABC has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services Smith performs for ABC are exempt from the Act's definition of "employment".

F) EXAMPLE: ABC Trucking Company pays for a customized paint job for the truck of any driver who drives over 1,000,000 miles for it without an accident, as long as the driver owns the truck. While technically, the cost of painting a truck may be considered an operating cost, the principal purpose of the payments in this case is not to reimburse the driver for operating costs but to reward his or her safe driving record. Under these facts, absent any other evidence that indicates that ABC has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services the driver performs for ABC are exempt from the Act's definition of "employment".

2) This subsection (i) does not apply if federal or State law or regulation requires that the costs of licensing or operating the truck, truck-tractor or tractor be paid by the person or entity to which the individual operating the truck, truck-tractor or tractor is contracted to perform the services.

j) Section 212.1(a)(6) of the Act

1) Section 212.1(a)(6) is not satisfied unless:

A) the individual performing the services offers or advertises his or her services to the public; and

B) the individual performing the services maintains his or her own business identity.

2) Compliance with subsection (j)(1) can be demonstrated by the individual displaying his or her name on the truck, truck-tractor or tractor, or otherwise.

EXAMPLE: Smith has his name and address painted on the doors of his truck. While operating his truck in the performance of services for XYZ Trucking, Smith also has affixed to his truck an identification device indicating he is hauling for XYZ. There is nothing on the truck to indicate Smith does not offer his services to the public. Under these facts, absent any other evidence that indicates XYZ has failed to satisfy the elements of subsections (e) through (k) of this Section, the services Smith performs for XYZ are exempt from the Act's definition of "employment".

k) Section 212.1(a) of the Act is not satisfied if, as a condition for retaining an individual's services as an operator of a truck, truck-tractor or tractor, the person or entity to which the individual is contracted

specifies the person or entity from which the individual is to purchase the truck, truck-tractor or tractor.

1) EXAMPLE: Smith operates a truck for ABC Trucking Company. The truck was purchased from XYZ Company, from which ABC requires anyone who wishes to drive for ABC to purchase his or her truck. Section 212.1 of the Act does not exempt the services Smith performs for ABC from the Act's definition of "employment".

2) EXAMPLE: Jones operates a truck for XYZ Trucking Company. Jones purchased the truck from Smith. Previously, Adams, the owner of XYZ, had advised Jones that Smith was interested in selling the truck. Adams had also indicated that, based on what he knew about the truck, he would have bought it if he had been in the market for a truck. However, at no time did Adams indicate that Jones' ability to perform services for XYZ was dependent upon Jones' purchasing a truck from Smith. Under these facts, absent any other evidence that indicates that XYZ has failed to satisfy the requirements of subsections (e) through (k) of this Section, the services Jones performs for XYZ are exempt from the Act's definition of "employment".

(Source: Amended at 43 Ill. Reg. 6449, effective May 14, 2019)

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Section 2732.210 Mandatory Jury Service

Mandatory service on a jury shall not constitute employment under the Act, nor shall payments made for those services constitute wages subject to the payment of contributions.

EXAMPLE: A county requires that all registered voters, except those exempted by law, be available to serve on juries for the county court system. The jurors are paid on a per diem basis for their services. These services are not voluntary and are compelled by law. Therefore, pursuant to this Section, the services shall not constitute employment, nor shall the per diem payments constitute wages.

(Source: Amended at 43 Ill. Reg. 6449, effective May 14, 2019)

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Section 2732.215 Exemption From The Definition Of Employment For Participants In The Americorps Program

Activities performed by an individual as a "participant", as that term is used in the National and Community Service Act of 1990, as amended (42 U.S.C. Sections 12501 et seq.), shall not be considered to be in employment under the Act [820 ILCS 405], and payments made to the individual for such activities shall not constitute wages subject to the payment of contributions.

(Source: Added at 21 Ill. Reg. 9456, effective July 2, 1997)

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Section 2732.220 Exemption From The Definition Of Employment For Direct Sellers Of Consumer Goods

a) For the purpose of applying Section 217(b) of the Act [820 ILCS 405/217(b)], the following terms have the meanings set forth below.

1) "Consumer product" means both tangible and intangible (e.g., a subscription for cable television service) personal property which is distributed in commerce and which is normally used for personal, family or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). The term "consumer product" does not include any product used in the manufacture of another product to be distributed in commerce or any product used only incidentally in providing a service (e.g., insecticide used in a pest control service, materials used in an appliance repair business). Where the sale of the consumer product includes the sale of a service (such as installation), such installation shall be considered incidental to the sale of the consumer product, and, therefore, not effect the exemption if the value of the installation is less than 10 per cent of the cost of the total purchase price (including installation).

2) A transaction is on a "buy-sell basis" if the salesperson is entitled to retain part or all of the difference between the price at which the salesperson purchases the product and the price at which he sells the product to the consumer as part or all of the remuneration for the services.

3) A transaction is on a "deposit-commission basis" if the salesperson is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the salesperson's remuneration for services.

4) "Permanent retail establishment" is any retail business operating in a structure or facility that remains stationary for a substantial period of time to which consumers go to purchase consumer goods. Examples of these establishments are grocery stores, hardware stores, clothing stores, hotels, restaurants, drug stores and newsstands.

Example: A vendor who sells consumer products in a parking lot or other property which is near to or serving a sports arena or other amusement area pursuant to an agreement which grants to the vendor or to another entity for which the vendor provides service the right to sell consumer products on such property sells consumer products in a permanent retail establishment, regardless of whether the sale is made within a permanent structure.

b) The "written contract" requirement is not met unless the contract specifically states that the individual will not be treated as an employee for Federal tax purposes. It will not be sufficient that the contract merely state that the individual will not be treated as an employee.

c) Services provided prior to the later of the effective date or the date of execution of the written contract shall not be exempt under Section 217(b) of the Act.

d) The "substantially all the remuneration" requirement of Section 217(b) is satisfied if at least 90 per cent of the total remuneration, including advances and draws, received by the individual for the calendar year from that employing unit for performing such services is directly related to sales or other output rather than to the number of hours worked. Advance or draw shall not include monies which, pursuant to a binding written contract, must be repaid by the individual directly or indirectly (including by a debit

against the individual's account with the employing unit).

(Source: Amended at 21 Ill. Reg. 9456, effective July 2, 1997)

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Section 2732.225 Exemption from the Definition of Employment for Freelance Editorial or Photographic Work

a) For the purpose of applying Section 225(B) of the Act, the following terms have the meanings set forth in this subsection (a).

1) "Freelance" means that an individual has a right to make his or her services available to the general public on an ongoing basis as distinguished from being required to perform services exclusively for one individual or entity.

EXAMPLE 1: Newspaper A needs a photographer to provide pictures of a presidential visit to the State Fair. The newspaper contracts with a Springfield photographer who regularly contracts with Newspaper A and other newspapers for specific assignments. This photographer is providing freelance services to this newspaper.

EXAMPLE 2: Newspaper A contacts a former tennis pro turned sports writer to cover the U.S. Open tennis tournament. The assignment is for a three week period. Newspaper A allows the sports writer to take on assignments from other sources provided they do not interfere with his coverage of the Open. This writer is providing freelance services to this newspaper.

2) "Editorial" means work pertaining to the literary or artistic activities or contents of a newspaper as distinguished from the newspaper's business and advertising activities.

EXAMPLE 1: Professor A is a world authority on economic theory C. Newspaper B hires professor A to write a column that explains why the President must adopt economic theory C as part of his reelection strategy. Professor A is performing editorial work for the newspaper.

EXAMPLE 2: Newspaper A wishes to print a story about a local fair. It hires a resident of the local area to write a column about the fair. The writer of this story is performing editorial work for the newspaper.

EXAMPLE 3: Newspaper A is considering raising its advertising rates. Therefore, it hires a consultant to examine all local media advertising rates and recommend a course of action. This consultant is not performing editorial services for the newspaper.

b) The application of Section 225(B) of the Act is limited to services performed for a newspaper. Freelance editorial or photographic services performed for a magazine do not fall within this exception.

(Source: Amended at 43 Ill. Reg. 6449, effective May 14, 2019)

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Section 2732.227 Exemption for the Delivery or Distribution of Newspaper or Shopping News to the Ultimate Consumer

a) For the purpose of applying Section 225(C) of the Act:

1) The "substantially all the remuneration" requirement is satisfied if at least 75% of the total remuneration received by the individual for the calendar quarter from the employing unit claiming the exemption is directly related to sales, "per piece" fees, or other output rather than to the number of hours worked. A "base fee" or other payment provided as a reasonable reimbursement for mileage and other expenses will not be included in calculating whether the requirement is met.

EXAMPLE 1: An individual's compensation consists of $.05 for each newspaper that he delivers and a base fee of $50.00 per week. The individual's weekly mileage expense is approximately $25.00 and his other expenses total approximately $10.00. The base fee is a reasonable reimbursement for mileage and other expenses. Therefore, since the base fee is not considered regardless of the number of newspapers delivered, 100%, therefore, "substantially all" of the individual's remuneration is directly related to output.

EXAMPLE 2: An individual's compensation consists of $.05 for each newspaper that he delivers and a flat fee of $100.00 per week. The individual's weekly mileage expense is approximately $20.00 and his other expenses total approximately $7.00. The fee is not a reasonable reimbursement for mileage and other expenses. The difference between the fee and the actual expenses is included in determining whether the "substantially all the remuneration" requirement is met. The individual's output based remuneration would have to be at least 75% of the individual's total pay for the exemption to apply.

2) The "written contract" requirement is not met unless the contract specifically states that the individual will not be treated as an employee for federal tax purposes. It will not be sufficient for the contract to merely state that the individual will not be treated as an employee. Any services provided prior to the date of the execution of the required written contract shall not be exempt under Section 225(C) of the Act; whether these services constituted employment under the Act shall be determined under Section 212 of the Act.

3) Delivery or distribution to the "ultimate consumer" does not include the delivery or distribution for sale or resale, including but not limited to distribution to a newsrack or newsbox, salesperson, newstand or retail establishment. Delivery or distribution to the "ultimate consumer" does not include the distribution for further distribution regardless of subsequent sale or resale.

EXAMPLE 1: Delivery of a single newspaper to a restaurant owner who allows his customers to read the paper is delivery to the ultimate consumer.

EXAMPLE 2: Delivery of several copies of a newspaper to a restaurant which provides a complimentary morning newspaper for its customers is not delivery to the ultimate consumer.

b) Section 225(C) of the Act shall apply to a "delivery agent" that delivers the newspaper or shopping news to the ultimate consumer through one or more agents or carriers.

EXAMPLE: Newspaper A contracts with an individual to deliver its newspapers in a specified

area. This individual hires several adult motor route carriers to actually deliver the newspaper. Section 225(C) of the Act applies to both the individual and the adult motor route carriers because they are delivering newspapers to the ultimate consumer.

c) For Section 225(C) of the Act to apply, the majority (more than 50%) of the individual's deliveries of the newspaper or shopping news must be to the ultimate consumer. The majority of deliveries is determined by the number of establishments where deliveries are made, not by the number of newspapers or shopping news delivered to the establishment.

EXAMPLE 1: An individual has a large newspaper distribution route. On this route, 40% of his deliveries are to homes or apartments. The remaining 60% are delivered to stores, restaurants, newsstands and other retail establishments for retail sale. Section 225(C) of the Act does not apply to this individual.

EXAMPLE 2: An individual delivers newspapers to 20 single family homes and to one drugstore. Each home receives one newspaper while 50 newspapers are delivered to the drugstore for resale. Because the number of establishments, not the number of newspapers, determines the majority of deliveries, the individual makes the majority of his deliveries to the ultimate consumer.

(Source: Amended at 43 Ill. Reg. 6449, effective May 14, 2019)

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Section 2732.230 Domestic Service

a) For purposes of applying Sections 211.5 and 215 of the Act [820 ILCS 405/211.5 and 215], the following terms have the meanings set forth in this subsection (a):

1) A "private home" is the fixed place of abode of the individual or family for whom the worker is performing services. A separate and distinct dwelling unit maintained by an individual as a residence, such as a hotel room, boat or trailer, can be a "private home". A room or suite in a nursing home can be a "private home", provided that the facts and circumstances of the particular case indicate that the room or suite is, in fact, the place where the individual retains his residence. A home utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise is not a "private home".

A) EXAMPLE: An individual who travels to the home of the child's parents to provide babysitting services for a child is performing services in a private home, while an individual who provides babysitting services in her own home would not be performing services in a private home.

B) EXAMPLE: A worker who provides cooking services in a bed and breakfast establishment in which the owner resides is not performing services in a private home.

2) A "local college club" or "local chapter of a college fraternity or sorority" does not include an alumni club or chapter.

3) "Domestic service" means service of a household nature, including service performed by cooks, waiters, butlers, housekeepers, housemothers, governesses, maids, valets, babysitters, janitors, launderers, furnacemen, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. Service not of a household nature, such as by a private secretary, nurse, tutor, or librarian, is not domestic service.

EXAMPLE: An individual who performs only caretaking services, such as bathing the individual, combing an individual's hair, reading, arranging bedding and clothing, doing laundry and preparing and serving meals is performing domestic service, even though he may be characterized as a health care worker. Registered or licensed practical nurses, or individuals responsible for providing professional or semiprofessional services such as physical therapy or giving intravenous medication, are not performing domestic service.

b) In determining whether an employing unit has paid $1,000 or more in wages in a calendar quarter for domestic service in a private home, local college club or local chapter of a college fraternity or sorority, all wages paid for domestic service in those locations to all individuals who performed domestic service in those locations for the employing unit are included.

EXAMPLE: Company A provides housekeepers to perform services in private homes. Each individual housekeeper is paid $250 in each calendar quarter by Company A. If 4 or more housekeepers are employed by Company A in a calendar quarter, their services will constitute "employment" under the Act. In order for the services provided to Company A to be excluded from "employment" under Section 211.5 of the Act, the total wages for domestic service paid to all of the housekeepers provided by Company A must be less than $1,000 for the quarter.

c) Domestic service that is performed in other than a private home, local college club or local chapter of a college fraternity or sorority is not subject to the provisions of Sections 211.5 and 215 of the Act. However, it may be excluded from "employment" by the provisions of Section 206 of the Act if the service is not provided for an "employer" under Section 205 of the Act, or it may be excluded from "employment" under Section 212 of the Act.

(Source: Amended at 43 Ill. Reg. 6449, effective May 14, 2019)

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Section 2732.235 Effect Of Section 218 Of The Act On The Employment Status Of Certain Relatives

a) In interpreting Section 218 of the Act, where the employing unit is a partnership, the term "employment" shall exclude service performed by an individual who has one of the following relationships with respect to each partner: father, mother, or spouse or a child under the age of 18.

Example: Mary Jones and Sally Johnson are partners in a cleaning service. Sam Johnson is employed by the cleaning service. While Mary Jones and Sally Johnson are unrelated, Sam Johnson is under the age of 18 and the son of Mary Jones and is the husband of Sally Johnson. Because a relationship specified in Section 218 of the Act exists between Sam Johnson and each of the partners, his services are excluded from the definition of "employment."

b) For purposes of Section 218 of the Act, the terms "father" and "mother" do not include a father-in-law or a mother-in-law; the term "child" includes only a natural or adopted child, a stepchild or a child who, by court order, is in the custody of the individual(s) claiming the exemption.

Example: Joe's Diner is a partnership whose partners are Joe and Stella Smith, husband and wife. Jack Jones is an employee of the partnership. He is also the father of Stella Smith. The services provided by Jack Jones to the partnership constitute "employment" under the Act. Section 218 of the Act does not apply because Jack Jones does not have one of the specified relationships with Joe Smith.

c) Section 218 of the Act does not apply to a corporation.

Example: Mrs. Murphy is the president and sole shareholder of Corporation A. Mr. Murphy, her husband, is employed by the corporation as a janitor. Section 218 of the Act does not apply in this situation because Mr. Murphy, is employed by the corporation, not by his spouse, Mrs. Murphy.

(Source: Added at 18 Ill. Reg. 16355, effective October 24, 1994)

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Section 2732.240 Employment Designation of Individuals Determined Eligible for Pandemic Unemployment Assistance (PUA)

a) In establishing an individual's eligibility for Pandemic Unemployment Assistance (PUA), created by the federal government in section 2102 of the Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136), as amended, the Department will determine whether an individual is eligible for regular unemployment insurance benefits or extended benefits under State or federal law, including Pandemic Emergency Unemployment Compensation (PEUC) under section 2107 of the CARES Act, and will review Department records and any documentation provided by the individual to determine whether wages for the individual were reported or earned for the quarters of the base period for the claim.

b) A determination of the Department under this Section that an individual is eligible for PUA shall not constitute a determination that the services performed by the individual fall within an exemption from Section 206 of the Act's definition of "employment", nor shall it foreclose the Department or any court of competent jurisdiction from determining, at any time, with regard to those services, that those services constitute "employment" as that term is defined in the Unemployment Insurance Act.

(Source: Added at 44 Ill. Reg. 14679, effective August 27, 2020)

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SUBPART C: DETERMINING THE EMPLOYER

Section 2732.305 Employee Leasing Companies (Repealed)

(Source: Repealed at 25 Ill. Reg. 2003, effective January 18, 2001)

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Section 2732.306 Employee Leasing Company − Obligation to Report the Identities of its Clients

a) A report submitted to the Department in the manner provided for in subsection (e), with the contents required by subsection (b), will satisfy the reporting requirement in Section 206.1(B)(4) of the Act for each month or calendar quarter, as applicable, ending on or after the date of the report's submission. The report will also satisfy the reporting requirements for the month or calendar quarter ending immediately prior to its submission when the employee leasing company's contract with the client took effect in that month or quarter and either:

1) the report is submitted within 30 days after the effective date of the contract; or

2) the last day of the month or quarter is a day on which the Department is closed and the report is submitted on the first succeeding day on which the Department is open.

EXAMPLE: Employee Leasing Company A contracts with Client B to lease employees to Client B, effective July 1, 2001. Client B has a contribution rate of 1.0% for 2001. Employee Leasing Company A has a contribution rate of 4.0% for 2001, and its relationship with Client B meets the conditions set forth in Section 206.1(B)(1), (2) and (3) of the Act. Beginning with the report due for the third quarter of 2001, Employee Leasing Company A reports the leased employees on its wage reports and pays contributions on those wages at its contribution rate. Client B terminates its liability as of July 1, 2001 and stops filing any wage reports. However, the Employee Leasing Company does not report the leasing relationship to the Director until February 1, 2002. As a result, Employee Leasing Company A cannot report the workers in question for the third and fourth quarters of 2001 as its employees. The workers must be reported by Client B. Since timely wage reports were not filed, nor were contributions paid by Client B, penalties will be assessed and interest charged. Waiver of the penalty and interest can be granted only for the reasons set forth in 56 Ill. Adm. Code 2765. Employee Leasing Company A may amend its wage reports to remove the workers and then file for a refund or adjustment as provided in Section 2201 of the Act or request a transfer of contributions from the account of the employee leasing company to the account of the client pursuant to Section 2765.64.

b) Contents of Report

1) In order to satisfy the reporting requirement in Section 206.1(B)(4) of the Act, a report must contain:

A) the name of the client;

B) a general description of the client's business and business locations;

C) the client's unemployment insurance account number (if any); and

D) the effective date of the employee leasing company's contract with the client.

2) The report shall be accompanied by either a power of attorney to represent the client or a certification by an officer or employee of the employee leasing company that the information contained in the report is true and correct to the best of the officer's or employee's knowledge.

c) Whenever the employee leasing relationship between an employee leasing company and its client is terminated, the employee leasing company must report the name of the client, the client's unemployment insurance account number (if any) and the effective date of the termination within 30 days after that date.

d) The terms used in this Section shall have the meanings set forth for them in Section 206.1 of the Act.

e) The notices required by this Section should be submitted online using MyTax Illinois (mytax.illinois.gov) or by mail or facsimile transmission to the Illinois Department of Employment Security, in care of the Revenue Division, attention Employer Services, at the address stated in 56 Ill. Adm. Code 2712.10 (FAX No.: 217-557-1948). A facsimile transmission is subject to 56 Ill. Adm. Code 2712.1 with respect to the risk of non-transmission and the effect of the dates imprinted by the Department's and sender's respective telefax machines.

(Source: Amended at 49 Ill. Reg. 11141, effective August 20, 2025)

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PART 2760: NOTICES, RECORDS, REPORTS
SUBPART A: GENERAL OBLIGATIONS

Section 2760.1 Posting and Maintaining Notices

a) Every employer subject to the provisions of the Unemployment Insurance Act [820 ILCS 405] (Act), including every employing unit that has elected, with the approval of the Director, to become an employer subject to the Act, shall post and maintain any printed notices that are furnished by the Director for that purpose.

b) The printed notices shall be posted in conspicuous places in all the establishments of the employer and shall be easily accessible for examination by the worker. The Director will, upon request, supply a sufficient number of duplicate notices to assure that the notices are accessible to all workers.

(Source: Amended at 43 Ill. Reg. 6470, effective May 14, 2019)

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Section 2760.5 Identification of Workers Covered by the Act

a) Each employer shall ascertain the federal Social Security account number of each worker employed by him or her in employment subject to the Act.

b) The employer shall report the worker's Social Security account number when making any report required by the Director with respect to the worker.

c) If an employer has in his or her employ a worker engaged in employment who does not have a Social Security account number, that employer shall request the worker to show him or her a receipt issued by an office of the Social Security Administration acknowledging that the worker has filed an application for an account number. The receipt shall be retained by the worker. In making any report required by the Director with respect to such a worker, the employer shall report the date of issue of the receipt, its termination date, the address of the issuing office, and the name and address of the worker exactly as shown in the receipt.

d) If a worker fails to report to the employer his or her Social Security account number or fails to show the employer the receipt issued by an office of the Social Security Administration acknowledging that he or she has filed an application for an account number, the employer shall inform the worker that regulations of the Internal Revenue Service (IRS) (26 CFR 31.6011(b)-2), under the Federal Insurance Contributions Act (26 USC 3101-3126), provide that:

1) Each worker shall report to every employer for whom he or she is engaged in employment, his or her federal Social Security account number and his name exactly as shown on the account number card issued by the Social Security Administration;

2) Each worker who has not secured an account number shall file an application for a federal Social Security account number on IRS (Application For A Social Security Account Number) Form SS-5;

A) The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves the employ of his or her employer if that date precedes the seventh day.

B) Copies of Form SS-5 can be secured at any district office of the Social Security Administration or from any district director;

3) If, within 14 days after the date on which the worker first performs employment for wages for the employer, or on the day on which he or she leaves the employ of the employer, whichever is earlier, the worker does not have a federal Social Security account number, and has not shown the employer a receipt issued to the worker by an office of the Social Security Administration acknowledging that he or she has filed an application for an account number, the worker shall furnish the employer an application of Form SS-5, completely filled in and signed by the worker.

A) If a copy of Form SS-5 is not available, the worker shall furnish the employer a written statement, signed by the worker, including the date of the statement, the worker's full name, present address, date and place of birth, father's full name, mother's full name before marriage, worker's sex and race, and a statement as to whether the worker previously filed an application on Form SS-5 and, if so, the date and place of the filing.

B) Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of his or her obligation to make an application on Form SS-5, as required by subsection (d)(2).

e) The employer shall inform the worker, in instances in which the information is pertinent, that in accordance with IRS regulation 26 CFR 31.6011(b)-2:

1) Any worker who has lost his or her federal Social Security account number card may secure a duplicate card by applying online through the Social Security Administration's website or at any district office of the Social Security Administration;

2) Any worker may have his or her account number changed at any time by applying to a field office of the Social Security Administration and showing good reason for a change;

3) Any worker whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS-5, should report that change or correction to a field office of the Social Security Administration;

4) Any worker with more than one federal Social Security account number shall report all numbers to the field office of the Social Security Administration nearest the worker's place of employment and to a local employment office.

f) If the worker fails to comply with the requirements enumerated under subsection (d), the employer shall execute a Form SS-5 or a statement, signed by the employer, setting forth as fully and as clearly as practicable the worker's full name, his or her present or last known address, date and place of birth, father's full name, mother's full name before marriage, the worker's sex and race, and a statement as to whether an application for an account number was previously filed by the worker and, if so, the date and place of the filing. This statement or executed Form SS-5, signed by the employer, shall be attached to any report required by the Director with respect to the worker.

(Source: Amended at 43 Ill. Reg. 6470, effective May 14, 2019)

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Section 2760.10 Filing By Mail

a) Unless otherwise provided, whenever it is required under any provisions of the Act or Rule promulgated thereunder, for any form, report, notice or other document to be received by the Department, the Director, or the Board of Review within prescribed time limits, such requirement is complied with if such form, report, notice or other document is received through the United States mail and the postmark thereon bears a date within the prescribed time limits, provided that said form, report, notice or other document is addressed in accordance with the instructions provided thereon.

b) This Section shall not waive any provision of the Act or Rule promulgated thereunder which requires an individual to file claims or report to an Agency office in person.

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SUBPART B: REPORTS AND RECORDS

Section 2760.100 Reports and the Report for Household Employers

a) Subject to the provisions of Sections 2760.105 through 2760.150, each employing unit shall make such reports as are prescribed, on forms issued by and required to be returned to the Director. Each employing unit shall complete the forms in accordance with the instructions accompanying the report forms, and return the completed forms to the address specified on the form. Failure to complete a report form in accordance with instructions shall be treated as a failure to complete the form.

b) For purposes of this Part, the Report for Household Employers refers to the report filed pursuant to Section 1400.2 of the Act [820 ILCS 405/1400.2].

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

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Section 2760.105 Reports of Employing Units as to Their Status

a) Any employing unit that commences business in any manner whatsoever, whether by purchase of a business already being operated, by starting a new business, or otherwise, shall, within 30 days after the commencement, file a signed form REG-UI-1 (Report To Determine Liability Under the Illinois Unemployment Insurance Act), or a document that includes the same information.

b) In addition to complying with the requirements of subsection (a), when applicable:

1) any employing unit that succeeds to substantially all of the assets of an organization, trade or business, or of a severable portion of those assets, shall file a signed form UI-1 S&P (Report To Determine Succession) or a document that includes the same information. A report of such a sale or transfer by the successor to a severable portion of the predecessor's organization, trade or business shall not constitute a joint application for the predecessor's experience rating record, unless the report also includes the additional requirements set forth in Section 1507(B)(2) through (3) of the Unemployment Insurance Act [820 ILCS 405] (Act).

2) any employing unit to which trade or business, or a portion of trade or business, is transferred to it by an individual or entity and at the time of the transfer there is any substantial common ownership, management or control of the transferor and transferee shall file form UI-1 S&P (Report to Determine Succession) or a document that includes the same information. A transfer of trade or business includes but is not limited to the transfer of some or all of the transferor's workforce.

c) The reports required under subsections (a) and (b) should be filed online using MyTax Illinois (mytax.illinois.gov) or by mail to: Central Registration Division, Illinois Department of Revenue, PO Box 19030, Mail Code 3-222, Springfield IL 62794-9030. Copies of forms REG-UI-1 and UI-1 S&P are available at that address and at ides.illinois.gov.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.110 Employing Unit Terminating Business

a) Any employing unit that terminates business (including dissolution of a partnership), for any reason whatsoever, or transfers or sells substantially all of the assets of the organization, trade or business or a severable portion of those assets to another or changes the trade name of such business shall, within 10 days after such termination, transfer or change of name, give notice in writing of that fact to the Director.

1) If an employer dies, written notice of the employer's death shall be given to the Director by the executor or administrator or other legal representative of the employer's estate within 90 days after the date of death.

2) In the case of bankruptcy or receivership proceedings for the relief of a debtor who is an employing unit, the trustees in bankruptcy, receiver or person designated by order of the court as in control of the assets of the debtor shall give written notice to the Director of such proceedings within 90 days after the commencement of such proceedings.

b) The notice required under this Section may be submitted online using MyTax Illinois (mytax.illinois.gov) or by mail to the Illinois Department of Employment Security, in care of the Revenue Division, at the address stated in 56 Ill. Adm. Code 2712.10. Forms for such notice shall be sent out by the Revenue Division upon request or are available on the Department's website (www.ides.illinois.gov).

c) Notwithstanding the requirements of subsections (a) and (b), an employing unit shall cease to be an employer as of the last day of a calendar quarter in which it ceases to pay wages for services in employment and ceases to have any individual performing services for it if, based on all available evidence, the Director determines that, as of the last day of that quarter, the employing unit has permanently ceased to pay wages for services in employment and permanently ceased to have any individual performing services for it. A termination of coverage under this subsection (c) shall be rescinded as of the date that the employing unit begins, later in the same calendar year or in the succeeding calendar year, to have any individual performing services for it on any part of any day. Any Determination and Assessment issued against the employing unit shall be null and void to the extent it pertains to any quarter during which the employing unit paid no wages for services in employment and had no one performing services for it, as long as that quarter is subsequent to the quarter as of the end of which the employing unit's coverage was terminated pursuant to this subsection (c) and prior to the date, if any, as of which the termination was rescinded or as of which the employing unit otherwise again became an employer.

1) EXAMPLE: Employer A (a sole proprietor) employed B (A's only employee) as a word processor. B left A's employ in September 2003 and A did not hire anyone else thereafter. A filed a contribution and wage report for the third quarter of 2004, but did not file a contribution and wage report for the fourth quarter of that year. A did not file a notice requesting termination of coverage or otherwise inform the Department that A had ceased to pay wages and no longer had any individual performing services for A. In March 2004, the Department issued a Determination and Assessment against A based upon estimated wages for the fourth quarter of 2003. A failed to file a timely protest and petition for hearing to the Determination and Assessment. In June 2004, A presented evidence to the Department that, since September 2003, A had no one performing services for A and had not paid any wages. With no evidence to suggest otherwise, the Department treated the Determination and Assessment as null and void.

2) EXAMPLE: Employer C (a sole proprietor) employed D (C's only employee) as a word processor. In September 2003, C decided that D would continue the word processing work, but as an "independent contractor". C did not report D's wages to the Department, nor pay contributions on those wages, with respect to periods after the third quarter of 2003 and did not file a notice requesting termination of coverage. In March 2004, the Department issued a Determination and Assessment against C based upon estimated wages for the fourth quarter of 2003. C failed to file a timely protest and petition for hearing to the Determination and Assessment, but in June 2004, wrote the Director explaining that D was now working as an "independent contractor". As D was still performing services for C during the fourth quarter, the Director lacked the authority to terminate C's coverage. By not timely protesting the Determination and Assessment, C allowed it to become final and waived C's opportunity to reach the merits of whether D was an independent contractor during the fourth quarter.

(Source: Amended at 49 Ill. Reg. 11147, effective August 20, 2025)

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Section 2760.115 Records With Respect to Employment

a) Each employing unit shall preserve existing records with respect to employment, and shall establish, maintain and preserve those records, indicating the data set forth in subsection (c).

b) These records shall be preserved for five years after they have been made. However, *if a determination and assessment of contributions, interest and penalties is made, or an action for the collection of contributions, interest or penalties is brought, records pertaining to the period or periods covered by such determination and assessment or action shall be preserved until the determination and assessment or action has become final, or has been cancelled or withdrawn.* [820 ILCS 405/1801]

c) The records set forth in subsection (a) shall show:

1) For each pay period:

A) The beginning and ending dates for that period;

B) The total amount of wages for employment paid in the pay period.

2) For each worker:

A) His or her name and Social Security account number, and address;

B) The dates on which he or she performed any service in employment;

C) The place of his or her employment.

i) For the purpose of this record, the place of employment of a worker shall be recorded as the city or county in which he or she performs work unless a worker performs his or her work in more than one city or county;

ii) In such event, the place of employment shall be recorded as the city or county in Illinois in which the worker has his or her base of operations; or, if he or she has no base of operations in Illinois, as the city or county in Illinois from which his or her services are directed or controlled; or if the place from which his or her services are directed or controlled is also outside Illinois, as the city or county within Illinois in which he or she has his or her residence.

D) His or her wages for each pay period, and the date those wages were paid, showing separately:

i) Money wages;

ii) Reasonable cash value of remuneration paid by the employing unit in any medium other than cash as determined in accordance with the provisions of 56 Ill. Adm. Code 2730.100;

iii) Amount of gratuities (tips) received in the course of employment from persons other than the employing unit as determined in accordance with the provisions of 56 Ill. Adm. Code 2730.105;

iv) Special payments for employment. Records under this subsection (c)(2)(D)(iv) include the amount of any special payments, such as bonuses, gifts, etc., paid during the pay period but that relate to employment in a prior period. Payments are regarded as special payments if: the amount thereof was not determinable; or, the person or persons to whom paid was not ascertainable at the end of the pay period or periods during which the services were performed. The date must be shown separately as to: money payments; other remunerations; the nature of the payments; and, if the special payments were made for services performed during some period, the period during which the services were performed.

E) His or her wage rate and scheduled or customary working hours according to the following classifications:

i) Salaried workers, including the salary rate and the pay period covered by the rate;

ii) Fixed daily wage workers, including the daily rate of pay, the actual number of days worked, and the full number of scheduled or customary working days per week in the employment in which he or she is engaged;

iii) Fixed hourly workers, including his or her hourly rate, the actual number of hours worked, and the full number of scheduled or customary working hours, if any, per week in the employment in which he or she is engaged;

iv) Piece rate workers, including the actual number of hours worked during each week, and the full number of scheduled or customary working hours, if any, per week in the employment in which he or she is engaged.

F) The date on which he or she was hired, rehired, or went to work after temporary layoff, and the date he or she was separated from employment.

d) For purposes of compliance with the record retention requirements of Section 1800 of the Act, magnetic tape shall be considered another process, in addition to hard copy or other electronic record maintenance systems, for accurately producing an original record on a durable medium. However, regardless of the medium an employing unit uses to store its payroll records, that employing unit must be capable of producing a copy of its records in a format that can be read by the human eye.

(Source: Amended at 43 Ill. Reg. 6470, effective May 14, 2019)

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Section 2760.120 Employer's Contribution and Wage Report and Report for Household Employers

a) The Department shall make available on its website (ides.illinois.gov), an Employer's Contribution and Wage Report form for filing quarterly unemployment insurance contribution reports and a Report for Household Employers form for employers that file annually pursuant to Section 1400.2. Except for employers subject to Section 2760.141, and except for other employers that file unemployment insurance contribution and wage reports using the Department's online tax system, MyTax Illinois (mytax.illinois.gov), each employer subject to the Act, including employers electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405 of the Act, must file unemployment insurance contribution and wage reports using the contribution and wage report provided on the Department's website or otherwise provide all of the information required by the form as provided in Section 2760.125(a)(5), and shall provide all of the information required on the Employer's Contribution and Wage Report form or Report for Household Employers form. If the employer fails to sign and complete the form provided on the Department's website or otherwise provide all of the information required by the form, the report may be considered an incomplete submission and be returned to the employer for resubmission.

1) In the event that an employer files a petition for bankruptcy under the Bankruptcy Code (USC Title 11), the employer shall file two Employer's Contribution and Wage Reports or two Reports for Household Employers, as applicable, for the quarter in which the petition is filed. An employer subject to the mandatory electronic reporting requirement of Section 2760.141 shall file two contribution reports for the quarter in which the petition is filed and two reports pursuant to Section 2760.125(a)(1) for the third month of the quarter in which the petition is filed. One report shall address the period beginning on the first day of the quarter to, and including, the day prior to the date of the filing of the petition. The other report shall address the period beginning on the date of the filing of the petition through the last day of the calendar quarter.

   EXAMPLE 1: Corporation A, which is not subject to the mandatory electronic reporting requirement of Section 2760.141, files a petition for bankruptcy on August 15, 2013. Corporation A is required to file two Employer's Contribution and Wage Reports for the third quarter of 2013, both due October 31, 2013. One will cover the period through August 14, 2013, and Corporation A will calculate contributions due for that period. The other report will cover the period of August 15, 2013 through September 30, 2013 and will reflect the contributions due for that period.

   EXAMPLE 2: Employer A, which is a household annual filer, files a petition for bankruptcy on August 15, 2013. Employer A is required to file two reports for Household Employers, both due April 15, 2014. One will cover the period through August 14, 2013, and Employer A will calculate contributions due for that period. The other report will cover the period of August 15, 2013 through December 31, 2013 and will reflect the contributions due for that period.

2) If an employer transfers substantially all of its employing enterprises to another employing unit but continues to be a liable employer, the employer shall file two Employer's Contribution and Wage Reports for the calendar quarter in which the transfer occurs. An employer subject to the mandatory electronic reporting requirement of Section 2760.141 shall file two contribution reports for the quarter in which the transfer occurs and two reports pursuant to Section 2760.125(a)(1) for the third month of the quarter in which the transfer occurs. One report shall address the period beginning on the first day of the quarter to, and including, the date of transfer. The other report shall address the period beginning on the first day after the date of transfer through the last day of the calendar quarter.

EXAMPLE: On August 15, 1994, Corporation A, which owns a retail establishment named the XYZ Store and is not subject to the mandatory electronic reporting requirement of Section 2760.141, sells the entire business except the name "XYZ Store" to Corporation B. The officers of Corporation A continue to perform services and are paid wages after the transfer. Corporation A is required to file two Employer's Contribution and Wage Reports for the third quarter of 1994, both due October 31, 1994. One will cover the period through August 15, 1994, and Corporation A will calculate contributions due for that period. The other report will cover the period of August 16, 1994 through September 30, 1994, and will reflect the contributions due for that period.

3) If the employer files only one report for a quarter for which two reports are required under subsection (a)(1) or (a)(2) and provides the total and taxable wages for the entire quarter in the report, or files only one report for a year for which two reports are required and provides the total and taxable wages for the entire year in the report, the report will be deemed to be insufficient as provided in Section 1402 of the Act. The employer must file, within 30 days after the mailing of a notice to it of insufficiency, the two reports required in either subsection (a)(1) or (a)(2), as applicable, or the penalties provided in Section 1402 of the Act shall apply.

4) Except as otherwise provided in this subsection (a)(4), with respect to an employer not subject to the mandatory electronic reporting requirement of Section 2760.141, the penalties provided for in Section 1402 of the Act regarding each report required under subsection (a)(1) or (a)(2) of this Section shall be calculated on the basis of the total wages paid and contributions due for the period to which that report applies. Regardless of whether the employer fails to timely file one or both of the reports, the total penalty for that failure shall not exceed $5,000, and the minimum penalty for the failure shall be $50. The minimum penalty for willful failure to pay any contribution, or part of any contribution, with intent to defraud the Director, shall be $400, regardless of whether the employer fails to make the payment for both or only one of the periods.

EXAMPLE: An employer not subject to the mandatory electronic reporting requirement of Section 2760.141 timely files a report representing the part of the quarter prior to the date of filing of the petition for bankruptcy. He or she is late in filing the report for the part of the quarter including the date the petition is filed. The penalty will be calculated only on the amount of wages paid as reflected in the report for the period including the date the petition for bankruptcy is filed.

b) In addition to the employer providing its name, address, account number and Federal Employer Identification Number on the Employer's Contribution and Wage Report or Report for Household Employers, the employer must provide the total wages paid during the quarter, the taxable wages paid during the quarter and the number of employees during the pay period that includes the 12th day of each month of that quarter. For purposes of this subsection (b), when an employer is required to file two reports pursuant to subsection (a)(1) or (a)(2), "quarter" shall mean the period required to be addressed by the report.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.125 Employer's Wage Report

a) Filing Wage Reports

1) Except as provided in subsection (a)(4), an employer subject to the mandatory electronic reporting requirement of Section 2760.141 shall, for each of the first two months of each calendar quarter, report, in addition to the employer's name, account number and Federal Employer Identification Number (FEIN), the name and Social Security number of each covered worker, the total wages paid to each covered worker (except as provided in Section 2760.130), and the total wages paid to all covered workers combined. Except as provided in subsection (a)(4), an employer subject to the mandatory electronic reporting requirement of Section 2760.141 shall, for the third month of each calendar quarter, submit a report (or reports if so required under Section 2760.120(a)(1) or (2)) containing the same information for the entire calendar quarter as is required pursuant to subsection (a)(2). The report required under this subsection (a)(1) for each month shall be filed on or before the last day of the calendar month next following the close of the month.

EXAMPLE: Employer A is subject to the mandatory electronic reporting requirement of Section 2760.141 for the period July 1, 2016 through June 30, 2017. Therefore, for each of January and February of 2017, Employer A is required to report its name, account number and FEIN; the name, Social Security number and total wages for the month of each covered worker (except as provided in Section 2760.130); and the total wages for the month of all covered workers combined.

A) For the purpose of calculating the monthly wages to determine any penalty for the third month of each quarter, the wages reported for the first and second months of the quarter shall be deducted from the quarterly wages reported by the employer for the third month of the quarter.

i) EXAMPLE: Employer A reports $5,000 in wages for January and $4,000 in wages for February. On the report for March, Employer A then reports $17,000 in wages for the entire first quarter. The Department will calculate March wages as follows: $17,000 - ($5,000 + $4,000) = $8,000.

ii) EXAMPLE: Employer A timely reports wages of $7,000 for July 2013 and $8,000 for August 2013. On November 3, 2013, Employer A files its wage report for September of 2013, reporting a total of $15,000 in wages paid for the quarter. Employer A will be assessed a minimum penalty of $50 for September 2013 because it filed its report for the month late, even though it apparently paid no wages for the month of September.

B) If the employer fails to file its monthly wage reports for the first two months of a quarter, for the purpose of determining the penalty to be assessed, the Department shall use the Employer's quarterly reported wages and divide by three.

EXAMPLE: Employer X fails to report monthly wages for April and May of 2013, but Employer X reports quarterly wages of $6,000 for the second quarter of 2013. The Department shall estimate monthly wages of $2,000 for April and $2,000 for May.

2) Except as provided in subsection (a)(3) or (a)(4), every employer subject to the Unemployment Insurance Act, and not subject to the electronic reporting requirement of Section 2760.141, including employers electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405

of the Act , shall file a report, or reports if so required under Section 2760.120(a)(1) or (2), each calendar quarter, listing the name and Social Security number of each covered worker and, except as provided in Section 2760.130, the total wages paid to each worker. Except as provided in Section 2760.141, the report shall be made on the form designated Employer's Contribution and Wage Report, which is available on the Department's website (ides.illinois.gov). The report due under this subsection (a)(2) shall be filed on or before the last day of the calendar month next following the close of the calendar quarter.

3) Except as provided in subsection (a)(4), an employing unit that becomes an employer, including employers electing to make payments in lieu of paying contributions under Sections 302, 1404 and 1405 of the Act, shall file the form designated by the Director as Employer's Contribution and Wage Report (listing the information required by subsection (a)(2)) for the quarter in which it becomes an employer and each subsequent quarter ending prior to the mailing of the notice described in subsection (a)(3)(A). The reports due under this subsection (a)(3) shall be filed on or before whichever of the following dates is later:

A) The 30th day following the date upon which the Director mails the employing unit a notice that includes information on how the employing unit can file a wage report required by this Section, Section 2760.120 or Section 2760.145 using MyTax Illinois (mytax.illinois.gov), or how to access blank copies of the forms for employing units that are not subject to Section 2760.141 and would like to file on paper; or

EXAMPLE 1: An employing unit files a REG-UI-1 on April 13, 2018, showing that it became an employer in the first quarter of 2018. The Director mails the notice described in this subsection (a)(3)(A) on April 20, 2018. The employer has until May 20, 2018 to file its contribution and wage report for the first quarter of 2018. The deadline for filing the wage report for the second quarter of 2018, and all subsequent reports, is governed by subsection (a)(2).

EXAMPLE 2: An employing unit files a REG-UI-1 on August 14, 2018, showing that it became an employer in the first quarter of 2018. The Director mails the notice described in this subsection (a)(3)(A) on August 21, 2018. The employer has until September 20, 2018 to file its contribution and wage report for the first and second quarters of 2018. The deadline for filing the wage report for the third quarter of 2018, and all subsequent reports, is governed by subsection (a)(2).

B) The last day of the calendar month next following the calendar quarter in which the employing unit becomes an employer. When a notice described in subsection (a)(3)(A) has been mailed to the employer and a due date for the report for a quarter is initially established pursuant to this subsection (a)(3)(B), the due date shall not change as the result of mailing another notice subsequent to the initially established due date.

EXAMPLE 1: An employing unit files a REG-UI-1 on February 15, 2018, showing that it became an employer in the first quarter of 2018. The Director mails the notice described in subsection (a)(3)(A) on February 20, 2018. The employer has until April 30, 2018 to file its contribution and wage report for the first quarter of 2018. The deadline for filing all subsequent reports is governed by subsection (a)(2).

EXAMPLE 2: An employing unit files a REG-UI-1 on April 13, 2018, showing that it became an employer in the second quarter of 2018. The Director mails the notice described in subsection

(a)(3)(A) on April 19, 2018. The employer has until July 31, 2018 to file its contribution and wage report for the second quarter of 2018 (the last day of the calendar month next following the calendar quarter in which the employing unit became an employer). The employer files its contribution and wage report for the second quarter of 2018 on August 1, 2018, making it late and, therefore, subject to a penalty. Included in the employer's filing for the second quarter is a contribution and wage report for the first quarter of 2018. Based on this report, the liability date of the employer is moved to January 1, 2018. Since the liability date of the employer was moved to an earlier quarter, the Director mails an additional notice described in subsection (a)(3)(A) to the employer on August 8, 2018. Pursuant to subsection (a)(3)(A), the employer has until September 7, 2018 to file its contribution and wage report for the first quarter of 2018. Since the employer already filed its report for the first quarter, the first quarter report will not be considered late. However, the July 31, 2018 due date initially established for the second quarter report will not change as result of the mailing of the second notice.

4) For employers who have elected to file annually pursuant to Section 1400.2 of the Act, with respect to the first quarter for which the employing unit has made the election and each quarter thereafter for which the election remains in effect, it shall file the form designated as the Report for Household Employers listing the information required by subsection (a)(2). The report due under this subsection (a)(4) shall be filed on or before whichever of the following dates is later:

   A) The 30th day following the date upon which the Director mails the employer a notice that includes information on how to access the form designated as the Report for Household Employers; or

   B) April 15 of the calendar year immediately following the close of the quarter to which the report applies.

5) The information with respect to each worker required by subsection (a)(2) may be submitted on a form other than that designated by the Director as the Employer's Contribution and Wage Report, or the Report for Household Employers, provided that the Director has approved the use of the substitute form.

6) Upon written request filed with the Director prior to the due date of the report, the Director shall, for any reasonable cause shown, grant in writing an extension of a maximum of 15 days for the filing of any report required on a monthly basis under subsection (a)(1) and 30 days for the filing of any report required under subsection (a)(2), (a)(3) or (a)(4). A reasonable cause is when an employer cannot meet a due date through no fault of its own or because of circumstances beyond its control.

   A) The request shall make a full explanation of the reasons for the request and shall state the date to which the extension is desired.

   B) If an employer that has been granted an extension of time pursuant to this subsection (a)(6) fails to file the report on or before the extended due date, the penalty referred to in subsection (b) shall accrue from the original due date as if no extension had been granted.

b) Any employer, including an employer electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405 of the Act, which, during any calendar quarter (or any calendar month, in the case of an employer subject to the mandatory electronic reporting requirement of Section 2760.141), has paid wages to any of its workers and that fails to file reports of those wages on or before the dates they

are due under the provisions of this Section, shall pay penalties as set forth in Section 1402 of the Act and 56 Ill. Adm. Code 2765.

c) An extension in the period of time for filing a wage report does not extend the deadline for making payment of any required contributions.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.128 Wage Report Filing for Employers that Employ Household Workers and Elect to Report Their Wages on an Annual Basis

a) This Section only applies to an employer who solely employs household workers with respect to whom the employer files federal unemployment taxes using Schedule H (Form 1040) or could file federal unemployment taxes using Schedule H (Form 1040) if the worker or workers were providing services in employment for purposes of the federal unemployment tax. For purposes of this Section, "household worker" has the meaning ascribed to it for purposes of Schedule H (Form 1040) and includes, but is not limited to, babysitters, cleaning people, housekeepers, nannies and maids.

1) EXAMPLE: Joe Smith employs individuals to provide maid services in the private homes of his customers. For purposes of Schedule H (Form 1040), an employee is considered a household worker only if his or her services are provided in the employer's private home. This Section does not apply to Joe Smith since he is not eligible to use Schedule H because the services of his employees are not performed in his home.

2) EXAMPLE: Jane Smith is the sole proprietor of a trucking company that employs numerous drivers and office personnel. She also employs a nanny to care for her child in her home. This Section does not apply to Ms Smith because, while the nanny is a household worker for purposes of Schedule H (Form 1040), performing her services in Ms Smith's private home, Ms Smith does not solely employ household workers.

3) EXAMPLE: George Smith employs a housekeeper who is considered self-employed for purposes of the federal unemployment tax, and whose wages, therefore, are not subject to the federal tax. However, the services are employment under Illinois' Unemployment Insurance Act [820 ILCS 405]. Since Mr. Smith could have used Schedule H (Form 1040) to file federal unemployment taxes with regard to the housekeeper's services had she not been considered self-employed for purposes of the federal tax, this Section will apply regarding her services.

b) Notwithstanding any other provisions of this Part to the contrary, if an employer to whom this Section applies notifies the Director, in writing, that he or she wishes to pay his or her quarterly contributions and submit the quarterly wage and contribution reports on an annual basis, then the due date for filing the reports shall be April 15 of the calendar year immediately following the quarters to which the reports apply. A notice pursuant to this subsection shall apply to all quarters for which a Determination and Assessment of contributions, penalties or interest due has not become final. An employer's failure to provide the notice before the reports and payments become due may result in the Department's issuance of statements of account, indicating the employer is delinquent in the filing of wage reports or the payment of contributions, or both, as well as the issuance of a Determination and Assessment of delinquent contributions, plus penalties and interest. If the employer does not protest a Determination and Assessment on a timely basis, pursuant to Section 2200 of the Act, the delinquency indicated in the Notice of Determination and Assessment will become a legally final debt of the employer's.

(Source: Added at 33 Ill. Reg. 9652, effective July 1, 2009)

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Section 2760.130 Reporting "Excess" Wages

Pursuant to Section 2760.125, the employer shall enter on the wage reporting portion of its Employer's Contribution and Wage Report or Report for Household Employers, or on its monthly report of wages in the case of an employer subject to Section 2760.125(a)(1), the amount of wages (whether or not subject to the payment of contributions) paid during the calendar quarter, or month as the case may be, to each listed worker. However, in the case of an employer subject to Section 2760.125(a)(1), with regard to either of the first 2 months of the calendar quarter, if the wages paid by the employer during the month to any worker are in excess of $15,000, the employer may report only $15,000 for the worker with respect to that month. If the wages paid by the employer during a calendar quarter to any worker are in excess of $45,000, the employer may report only $45,000 for the worker with respect to that calendar quarter; provided, that the employer shall enter on its Report or Return a sum total of all excess wages and shall identify such sum as "Excess Wages Not Allocated".

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

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Section 2760.135 Remittance of Contributions Due and Use of Payment Voucher

a) The Department shall make available, through its online tax system, MyTax Illinois (mytax.illinois.gov) and on its website (ides.illinois.gov), a Payment Voucher that is to be returned with any payment, except a payment that is made through electronic funds transfer. Except for payments made through electronic funds transfer, every employer must enclose a Payment Voucher with any payment or otherwise provide all of the information the Payment Voucher would provide, regardless of the amount due. For any payment that is not made through electronic funds transfer, failure of the employer to enclose a Payment Voucher with its payment, or otherwise provide all of the information the Payment Voucher would provide, may result in a return of that payment to the employer for resubmission.

1) The Payment Voucher and check must be sent to the address indicated on the form.

2) A separate check, made payable to the Department of Employment Security, must accompany each Payment Voucher, and the Employer's Illinois Account Number should be written on the face of the check.

b) Failure of the employer to submit a check to the address indicated on the form may result in a return of that check to the employer for resubmission. If the resubmitted check is received at the proper address after the due date provided in Section 1400 of the Act, interest shall accrue as provided in Section 1401 of the Act. The Director shall not grant waiver for any interest so accrued.

c) Notwithstanding any other provisions to the contrary, an employer may remit payments other than by check in accordance with instructions provided on the Department's website.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.140 Use of Electronic Data Processing Media for Quarterly Reporting Prior to 2013

a) Except as provided in subsections (g) and (h), the reports required by Sections 2760.120 and 2760.125 for a quarter beginning prior to calendar year 2013 must be filed by the use of an electronic data processing medium that meets the approval of the Director. The Director shall approve the use of electronic data processing media for reporting if he/she finds that:

1) All of the data required by the Director for quarterly reporting are also provided by the employer on the electronic data processing medium; and

2) The employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.

b) Subsection (a) shall only apply to an employer for a calendar year if the employer had 250 or more individuals in its employ (though not necessarily at the same time) during the prior calendar year.

EXAMPLE: During 2011, the employer has no more than 225 individuals in its employ at any one time. However, during the year, 30 of these individuals leave the employ of the employer and are replaced by 30 other individuals. Though the employer's labor force never exceeds 225 individuals at any one time, the employer had 255 individuals in its employ during 2011 and, therefore, is subject to subsection (a) for 2012.

c) The failure of an employer that is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act.

EXAMPLE: On October 20, 2012, an employer subject to the reporting requirements of subsection (a) mails a paper version of the report due for the third quarter of 2012 instead of filing it as required by subsection (a). On November1, 2012, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its report for the third quarter of 2012, the penalty set forth in Section 1402 of the Act shall be imposed, and any payment it ultimately submits for the third quarter of 2012 shall be reallocated in accordance with 56 Ill. Adm. Code 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before December 1, 2012 and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

d) When not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium that meets the prior approval of the Director. The Director shall approve the use of an electronic data processing medium for reporting if it meets the requirements of subsection (a) and if the employer agrees to file both reports by the use of that electronic data processing medium.

e) Any employer that was authorized by the Director, before December 27, 1993, to submit both of its quarterly reports on an electronic data processing medium may continue to do so without further approval by the Director, on the condition that the medium continues to meet the requirements of subsection (a). The employer is, however, subject to the requirements of subsection (f).

f) The first report submitted electronically pursuant to this Section for any calendar year must be accompanied by a certification, on a form provided for this purpose by the Director, signed by the owner, partner or authorized officer or official, that the information submitted is true and correct to the best of his or her knowledge and belief and that no part of the contribution reported was or is to be deducted from the worker's wages. This subsection (f) does not apply if the method of electronic submission being used includes the certification described in this subsection (f) as part of the report.

g) When the employer demonstrates that the Commissioner of the Internal Revenue Service has waived the electronic reporting requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), as in effect on January 1, 2012, for the employer with respect to documents covering a calendar year, the Director shall waive the reporting requirements of this Section for the employer with respect to reports covering the subsequent calendar year.

EXAMPLE: In February 2012, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2) have been waived with respect to Form W-2 data covering calendar year 2011, meaning that the employer will not be required to submit the data electronically in 2012. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering 2012.

h) When an employer was not subject to the mandatory electronic reporting requirements of this Section for any quarter of the prior calendar year, but is subject to those requirements for the current calendar year, the employer may, for any period through the second quarter of the current calendar year, file its quarterly reports by mailing paper versions of the reports in compliance with Sections 2760.120 and 2760.125.

EXAMPLE: The employer had, in total, 240 individuals in its employ during calendar year 2010. In calendar year 2011, the employer had, in total, 260 individuals in its employ. The employer will not be required to report electronically for any period through the second quarter of calendar year 2012 but will be required to report electronically for at least the third and fourth quarters of that year.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.141 Use of Electronic Data Processing Media for Monthly or Quarterly Reporting

a) Electronic Data Processing
Except as otherwise provided in subsection (b) or subsection (g), an employer shall file the reports required by Sections 2760.120 and 2760.125 by the use of an electronic data processing medium that meets the approval of the Director (see subsection (c)) in accordance with the following schedule:

1) for the period of February 1, 2013 through June 30, 2015, if the employer had 250 or more individuals in its employ (though not necessarily at the same time) during calendar years 2011 and 2012;

2) for the period of July 1, 2013 through June 30, 2015, if the employer had 100 or more individuals in its employ (though not necessarily at the same time) during calendar year 2012 but fewer than 250 during calendar year 2011;

3) for the period of January 1, 2014 through June 30, 2015, if the employer had 50 or more, but fewer than 100, individuals in its employ (though not necessarily at the same time) during calendar year 2012;

4) for the period of July 1, 2014 through June 30, 2015, if the employer had 25 or more, but fewer than 50, individuals in its employ (though not necessarily at the same time) during calendar year 2012; and

5) after June 30, 2015, for any one-year period of July 1 of a calendar year through June 30 of the immediately succeeding calendar year, if the employer had 25 or more individuals in its employ (though not necessarily at the same time) during the last calendar year completed immediately prior to the July 1 on which the period commenced.

b) Notwithstanding any other provision to the contrary, subsection (a) shall not apply for the period of January 1, 2014 through June 30, 2015 with respect to any employer that did not have at least 25 individuals in its employ (whether or not at the same time) during calendar year 2013.

c) The Director shall approve the use of electronic data processing media for reporting if he or she finds that:

1) all of the data required by the Director for monthly or quarterly reporting, as the case may be, are also provided by the employer on the electronic data processing medium; and

2) the employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.

d) In addition to any other requirements of this Section regarding electronic filing:

1) reports submitted pursuant to this Section for any quarter ending after December 31, 2012 shall be submitted only through a file transfer protocol or through manual entry or a file import or upload onto an online system used by the Department; and

2) reports submitted pursuant to this Section for any month after December 31, 2012 shall be submitted only through a file upload onto an online system used by the Department.

EXAMPLE: During 2012, the employer has no more than 90 individuals in its employ at any one time. However, during the year, 11 of these individuals leave the employ of the employer and are replaced by 11 other individuals. Though the employer's labor force never exceeds 90 individuals at any one time, the employer had 101 individuals in its employ during 2012 for purposes of subsection (a).

EXAMPLE: During 2014, the employer has no more than 20 individuals in its employ at any one time. However, during the year, 7 of these individuals leave the employ of the employer and are replaced by 7 other individuals. Though the employer's labor force never exceeds 20 individuals at any one time, the employer had 27 individuals in its employ during 2014 and, therefore, is subject to subsection (a) for the one-year period of July 1, 2015 through June 30, 2016.

e) The failure of an employer that is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act.

EXAMPLE: On August 20, 2015, an employer subject to the reporting requirements of subsection (a) for July 2015 attempts to mail a paper version of the report due for that month instead of filing it as required by subsection (a). The Department, however, does not accept paper versions of reports covering the first 2 months of a calendar quarter. On September 1, 2015, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its July 2015 report, the penalty set forth in Section 1402 of the Act shall be imposed, and any payment it ultimately submits for the third quarter of 2015 shall be reallocated in accordance with 56 Ill. Adm. Code 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before October 1, 2015, and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

f) When not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium if it meets the requirements of subsection (c) and if the employer agrees to file both reports by the use of the electronic data processing medium.

g) The Director shall waive the reporting requirements of this Section with respect to reports covering any month commencing in the subsequent calendar year when the employer demonstrates that the Commissioner of the Internal Revenue Service:

1) has waived the electronic reporting requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), as in effect on January 1, 2014, for the employer with respect to documents covering a calendar year; or

2) would have waived those requirements for the employer had they otherwise been applicable.

EXAMPLE: In February 2015, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 have been waived with respect to Form W-2 data covering calendar year 2014, meaning that the employer will not be required to submit the data electronically in 2015. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering any month commencing during calendar year 2015. However, unless the employer also demonstrates to the Director that the

Commissioner has waived those requirements with respect to documents covering calendar year 2015, the Director will not waive the reporting requirements of this Section with respect to any month commencing during calendar year 2016.

EXAMPLE: The electronic reporting requirements of Treasury Regulation 301.6011-2 do not apply to the employer because the employer had fewer than 250 individuals in its employ in the prior year. If the employer believes, however, that it would otherwise qualify for a waiver of the Regulation's requirements, the employer may apply for a waiver from the Director, who will grant the waiver if the Director determines that the conditions for granting a waiver under this Part have been met.

(Source: Added at 39 Ill. Reg. 10755, effective July 27, 2015)

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Section 2760.145 Correcting the Employer's Contribution and Wage Report or Report for Household Employers

a) Should an employer make an error in the reporting of total or taxable wages paid during a quarter or in the calculation of its contributions due, it shall correct that error by preparation of the form "Employer's Correction Report For The Quarter Ending ___." This same form shall be used to correct errors in reporting wages of individual workers. This form requires the same information as the original Report in addition to the corrected information and an explanation of the change.

b) When an employer incorrectly reports the name or Social Security Number of a worker on the wage report portion of the Employer's Contribution and Wage Report or Report for Household Employers, or, in the case of an employer subject to the mandatory electronic reporting requirement of Section 2760.141, on the report for the third month of the quarter, a correction shall be made by the use of form "Social Security Number And Name Change Notice" . This form requires the original information reported and the corrected information.

c) An employer may make the corrections described in subsections (a) and (b) by mailing a signed "Employer's Correction Report For The Quarter Ending ___" or "Social Security Number Correction And Name Change Notice", as applicable, to the address provided on the forms, which are available on the Department's website (ides.illinois.gov). An employer may also amend an Employer's Contribution and Wage Report or Report for Household Employers as described in subsections (a) and (b) online using MyTax Illinois by submitting a signed form "Amend Quarterly Wage Report". In the case of an employer subject to the mandatory electronic reporting requirement of Section 2760.141, an employer may make corrections to the reports required for the first two months of a calendar quarter through the MyTax Illinois website by submitting a signed form "Employer's Correction Report for the Month Ending ___" on or before the last day of the second calendar month following the close of the month for which the report is due. Corrections to a monthly wage report may not be made by mail.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.150 Consequences of an Error in the Preparation of the Employer's Contribution and Wage Report or Report for Household Employers and Procedures for the Waiver or Elimination of Certain Penalties

a) If an error in the preparation of the Employer's Contribution and Wage Report or Report for Household Employers results in an underreporting of contributions due, the employer shall be liable for any penalty and the delinquent contributions plus interest, calculated in accordance with Section 1401 of the Act, from the date that the original report was due.

b) Except as provided in subsection (c), if an error in the preparation of the Employer's Contribution and Wage Report or Report for Household Employers resulted in an overpayment of contributions, the employer may file a claim for an adjustment or refund. The claim must be signed and filed within the period provided in Section 2201 of the Act. The request shall be filed on the form entitled "Employer's Claim for Adjustment/Refund" as provided in 56 Ill. Adm. Code 2725.115.

c) Except as otherwise provided in subsection (d), in the event that the employer is mailed a Statement of Account that indicates the employer's account has a credit balance and the employer wishes to obtain a cash refund, the employer may file for the refund within the period provided in Section 2201 of the Act, on the form, Employer Request for Refund − Statement of Account. The form may be obtained and shall be completed in the same manner as provided in subsection (b).

d) Except as otherwise provided in this subsection, in the event that the employer has overpaid a penalty as the result of Section 2760.141 or 56 Ill. Adm. Code 2765.62, the Department shall apply the credit as an adjustment against other liabilities of the employer under the Act. The Department shall grant a refund of any credit resulting from Section 2760.141 or 56 Ill. Adm. Code 2765.62 if the credit has not been used as an adjustment by January 31, 2016.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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PART 2765 PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES
SUBPART A: GENERAL PROVISIONS

Section 2765.1 Unemployment Contributions Not Deductible From Wages

Contributions or payments in lieu of contributions shall not be deducted or deductible, in whole or in part, from the wages or remuneration of individuals in the employ of either a contributing or reimbursable employer in Illinois.

(Source: Amended at 7 Ill. Reg. 13266, effective January 28, 1983)

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Section 2765.5 Definitions

For the purposes of this Part, the following terms shall have the meaning as defined hereunder:

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Contributing employer", also known as a regular employer, pays contributions at a specified percentage of the taxable wages paid to individuals performing services in covered employment.

"FUTA" means the Federal Unemployment Tax Act, 26 USC 3301 through 3311.

"Reimbursable employer" is a nonprofit organization as defined in Section 211.2 of the Act or any local governmental entity as determined in Section 211.1 of the Act which elects to make payments in lieu of contributions.

"Unemployment taxes" are the contributions paid by contributing employers and the payment in lieu of contributions paid by reimbursable employers.

(Source: Amended at 25 Ill. Reg. 2011, effective January 18, 2001)

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Section 2765.10 Payment Of Contributions

Contributions based upon taxable wages paid in a calendar quarter are payable on or before the last day of the month following the end of the quarter unless the payment period is shortened pursuant to 56 Ill. Adm. Code 2790.5.

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Section 2765.11 Employers Who Employ Household Workers and Pay Contributions on an Annual Basis

Notwithstanding any other provisions of this Part to the contrary, if an employer to whom 56 Ill. Adm. Code 2760.128 applies provides the notice described in subsection (b) of that Section, then the due date for paying contributions shall be April 15 of the calendar year immediately following the quarters for which the contributions are due.

(Source: Added at 33 Ill. Reg. 9658, effective July 1, 2009)

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Section 2765.15 Liability For The Entire Year

If the liability for the payment of contribution first attaches at any time during the calendar year, contributions are payable on the taxable amount of all the wages paid for the entire year. The contributions are due and payable on or before the last day of the month following the quarter in which the employer becomes liable. For example, if the 20th week in which one or more persons are employed or $1500 in wages are paid for the first time, falls in the third calendar quarter, contributions are payable on all the taxable wages paid during the first three quarters of the year and are due on or before October 31.

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Section 2765.18 Liability of a Third Party Purchaser or Transferee for the Due and Unpaid Contributions, Interest and Penalties of the Seller or Transferor's Seller or Transferor

Under Section 2600 of the Act, whenever a purchaser or transferee acquires substantially all or a class of the assets (as enumerated in that Section of the Act), it shall be required to follow a procedure set forth in the Act to ensure that any contributions, interest and penalties that are due and unpaid are paid. If these contributions, penalties and interest are not so paid, the purchaser or transferee becomes personally liable for these contributions, the interest and the penalties. Since these amounts are then the personal liabilities of the purchaser or transferee, if the purchaser or transferee then sells or transfers substantially all or a class of the assets (as enumerated in that Section of the Act), the subsequent purchaser or transferee shall also become personally liable for these same amounts if it does not follow the procedure set forth in the Act to insure that any contributions, interest and penalties which are due and unpaid are paid.

Example: Company B purchases all of the assets of Company A which owes contributions, interest and penalties to the Director. Company B does not follow the statutory procedure to ensure that the amounts have been paid. Therefore, Company B is personally liable for these amounts. Company B then sells all of its assets to Company C. Company C does not follow the statutory procedure to ensure that the amounts now owed by Company B have been paid. Company C is now also personally liable for these amounts. Companies A, B and C are jointly and severally liable for the amount originally owed by Company A, and the Director may attempt collection from Company A, Company B or Company C.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.20 Contributions Of Employer By Election

If an employing unit not otherwise liable elects to become an employer under the Act, and election is approved as of a date other than January 1 of any calendar year, the first payment shall include the contributions with respect to all wages for employment paid on or after the date stated in such approval, and up to and including the last day of the quarter in which such election is approved.

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Section 2765.25 Payments In Lieu Of Contributions

The payments in lieu of contributions are equal to the amount of regular benefits paid to a reimbursable employer's employees who become claimants. If extended benefits are paid to such claimants, a non-profit organization reimburses one-half, and a local governmental entity the full amount, of the extended benefits.

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Section 2765.30 When Payments in Lieu of Contributions Are Payable

a) The payments in lieu of contributions are due within 30 days after the mailing date of the Statement of Amount Due for Benefits Paid (Form Ben-118R) unless the payment period is shortened pursuant to 56 Ill. Adm. Code 2790.5. The Ben-118R shows the amount of benefits paid and is mailed as soon as practicable to the reimbursable employer after the end of the calendar quarter to which it refers.

b) Whenever the total amount due on the Ben-118R is less than $2.00, that amount may be disregarded. Any amount disregarded pursuant to this subsection shall be deemed paid for all other purposes under the Act. However, nothing in this subsection is intended to relieve any employer from filing reports required by the Act or rules promulgated thereunder.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.35 Payments When Reimbursable Employer Becomes Contributory

A reimbursable employer which changes from payments in lieu of contributions to payment of contributions shall start paying contributions in the first calendar quarter of the year when the change is effective. Payment shall be made in the manner provided in 56 Ill. Adm. Code 2765.10. The employer remains liable to reimburse any benefits paid to claimants on or after the effective date of the change on the basis of wages paid to such claimants when the employer was on the reimbursement basis.

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Section 2765.40 Payments When Contributory Employer Becomes Reimbursable

An election by an eligible contributing employer to make payments in lieu of contributions shall not terminate by liability incurred by the employer for the payment of contributions, interest or penalties with respect to any calendar quarter which ends prior to the effective date of the election. The change becomes effective beginning with January 1 of the next calendar year.

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Section 2765.44 Fee For Not Sufficient Funds (NSF) Checks

An employer that attempts to pay amounts due under this Part with a check returned to the Department because of insufficient funds (NSF) in its bank account to cover the amount of the check will be charged a fee of $20.00.

(Source: Added at 18 Ill. Reg. 14952, effective September 27, 1994)

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Section 2765.45 Application of Payment

a) Whenever the employer makes a payment and it is accompanied by a letter, Employer's Contribution Report or a Statement of Account, the money received shall be applied to the quarter or quarters indicated by the employer.

b) If no designation is made for the application of the remittance, or if the payment received is more than sufficient to cover the quarter to which it applies, the remittance or the excess shall be applied beginning with the oldest or earliest unpaid quarters of the employer, if any.

c) The application of remittance within a quarter is not subject to designation. Within a quarter, all remittance shall be applied first to recording fees paid with respect to liens, as required by 56 Ill. Adm. Code 2790.25, if any, in the order of earliest to latest, then to NSF fees required by Section 2765.44, in the order of earliest to latest, then to penalties, interest and unemployment contributions, in that order.

EXAMPLE: An employer owes $200 in contributions and $50 in interest for the first quarter of 2016. The employer remits $100 and asks that it be credited to the unpaid contributions due for the first quarter of 2016. $50 will be credited to the accrued interest for the first quarter of 2016, and $50 will be credited to the unpaid contributions due for the first quarter of 2016.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.50 Accrual Of Interest

a) The contributions or payments in lieu of contributions (reimbursements) shall bear interest from the day following the due date of such contributions or reimbursements, up to and including the day payment is made, as shown by the date of the postmark thereon, if mailed; except that, after December 31, 1987, payments received more than 30 days after the due date shall be deemed to have been received on the last day of the month preceding the month in which such payment is received. For example, a payment which was due on April 30, 1988, but received on July 14, 1988, shall be deemed, for the purpose of calculating interest, to have been received on June 30, 1988. Interest accrues at the rate of 1% per month and 1/30 of 1% per day or fraction thereof through December 31, 1981. After 1981, such interest will accrue at the rate of 2% per month, calculated at 12/365 of 2% for each day.

b) The Director may waive interest for good cause as provided in this Part.

(Source: Amended at 17 Ill. Reg. 308, effective December 28, 1992)

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Section 2765.55 Imposition Of Penalty

a) The penalty for late filing of the "Employer's Contribution and Wage Report" provided in Section 1402B of the Act shall be a sum equal to the lesser of $5 for each $10,000 or fraction thereof of the total wages for insured work paid during the period or $2,500, for each month or part thereof of such failure to file the report. In no case, however, will the penalty be less than $50 nor more than the lesser of $10 for each $10,000 or fraction thereof of the total wages for insured work paid during the period or $5,000.

b) If a timely wage report is deemed insufficient (see Section 2760.120(a)) by the Director, the employer has 30 days after the mailing of the notice of such insufficiency to the employer within which to file a corrected and sufficient wage report without penalty.

c) A penalty may be waived for good cause shown as provided in Sections 2765.65 and 2765.68.

(Source: Amended at 16 Ill. Reg. 2131, effective January 27, 1992)

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Section 2765.56 Imposition of Late Reporting Penalty for Employers Who Employ Household Workers and Elect to File Reports on an Annual Basis

When an employer to whom 56 Ill. Adm. Code 2760.128 applies and who provides the notice described in subsection (b) of that Section does not submit all quarterly reports of wages paid to household workers during the calendar year, along with all quarterly reports of contributions due with respect to those wages, by April 15 of the immediately following calendar year, the Director shall impose the statutory penalty on the employer. The minimum penalty shall be $50, irrespective of the number of quarters for which the employer filed after April 15.

a) EXAMPLE: John Smith has notified the Director that he wishes to file his quarterly wage and contribution reports on an annual basis for 2008. He files his reports for the first, second and third quarters of 2008 on April 15, 2009. However, he does not file his fourth quarter report until April 20, 2009. The minimum penalty to be assessed for the delinquent fourth quarter report is $50.

b) EXAMPLE: John Smith has notified the Director that he wishes to file his quarterly wage and contribution reports on an annual basis for 2008. He files his reports for the first and second quarters of 2008 on April 15, 2009. However, he does not file his third and fourth quarter reports until April 20, 2009. The minimum penalty to be assessed for the delinquent third and fourth quarter reports combined is $50.

c) EXAMPLE: Joe Smith has notified the Director that he wishes to submit his quarterly wage and contribution reports on an annual basis. However, he fails to submit his reports for 2008 by April 15, 2009. He submits his reports for the first, second and third quarters of 2008 on September 15, 2009, but does not submit his report for the fourth quarter of 2008 until October 1, 2009. The minimum penalty to be assessed for the delinquent first, second, third and fourth quarter reports combined is $50.

(Source: Added at 33 Ill. Reg. 9658, effective July 1, 2009)

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Section 2765.60 Payment Or Filing By Mail

Where the payment of contribution or filing wage reports is received through the United States mail and the postmark thereon bears a date within the prescribed time limits, the contributions or the wage reports shall be considered timely paid or filed, as the case may be.

(Source: Amended at 16 Ill. Reg. 2131, effective January 27, 1992)

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Section 2765.61 Waiver of Interest and Penalty for Employers Who Employ Household Workers and Who File Reports and Pay Contributions on an Annual Basis (Repealed)

(Source: Repealed at 33 Ill. Reg. 9658, effective July 1, 2009)

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Section 2765.62 Temporary Waivers of Penalty

a) Subject to the limitations set forth in subsection (b), the penalties for failure to file a report as required by 56 Ill. Adm. Code 2760.125(a) for either or both of the first 2 months of a calendar quarter in compliance with 56 Ill. Adm. Code 2760.141(a) shall be waived when the employer timely files the report required for the third month of that quarter as required by 56 Ill. Adm. Code 2760.125(a)(1), in compliance with 56 Ill. Adm. Code 2760.141.

b) Subsection (a) shall not apply for months following the first 2 quarters that include months for which penalties have been waived pursuant to subsection (a) or for any months beginning after November 30, 2014.

c) Notwithstanding any other provision of this Part to the contrary, as a result of business interruptions and widespread closures resulting from COVID-19, the Director finds good cause for waiving any penalties imposed upon any employer for failing to submit or timely submit the report required under 56 Ill. Adm. Code 2760.125(a) for the month of February 2020.

(Source: Amended at 44 Ill. Reg. 13339, effective July 28, 2020)

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Section 2765.63 When Payment Due and Consequences of Upward Revision in Employer's Contribution Rate

a) Whenever an employer receives notice of a revised contribution rate that is higher than the rate given by the immediately preceding regular or revised rate notice, the employer shall have 30 days from the date of mailing of this revised rate notice to pay the additional amount of contributions due for that calendar year. This 30 day period shall be available to an employer whether or not the employer exercises its right to appeal this revised rate under Section 1509 of the Act.

b) If an employer pays an additional amount of contributions due as a result of an upward revision of its contribution rate within 30 days after the date of mailing of the revised rate notice, the employer shall be deemed to have paid this additional amount of contributions on the dates that its original contributions for that calendar year were paid in full. The payment of additional contributions within 30 days after the date of mailing of a higher revised contribution rate notice by an employer under this Section has two consequences:

    1) No interest shall accrue on the employer's account from the dates of the original payments in full to the date the additional amount of contributions for that calendar year are received; and

    2) The employer's additional payment will be credited for FUTA purposes as of the dates the original payments in full were made.

c) If an employer fails to pay the full amount of additional contributions due as a result of an upward revision to its contribution rate within 30 days after the date of mailing of the revised rate notice, the additional contributions due as a result of this higher rate shall accrue and become payable on the date the original contributions for that calendar year accrued and became payable in accordance with Section 1400 of the Act. Two results follow from an employer's failure to pay the additional contributions due under a revised higher contribution rate notice within 30 days after the date of mailing:

    1) Interest shall accrue on the unpaid balance of the employer's account from the date that the original contributions accrued and became payable.

    2) The employer's FUTA credit will be adjusted downward as of the date the original contributions accrued and became payable.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.64 Consequences When an Employee Leasing Company Has Erroneously Reported Wages and Paid Contributions When the Wages Should Have Been Reported and Contributions Paid by Its Client

a) When wages should have been reported and contributions paid by a client, but the wages were erroneously reported and the contributions paid by an employee leasing company, the Director shall, upon the joint request of the client and the employee leasing company, on a form available from the Director, transfer the contributions from the account of the employee leasing company to the account of the client, effective as of the dates that the report was submitted and the contributions paid by the employee leasing company, respectively. As a result, interest shall be due only to the extent that the amount due from the client exceeds the amount paid by the employee leasing company.

EXAMPLE: Employee Leasing Company X erroneously reports the wages of certain workers on its Wage Report and pays the contributions due on these wages. It is determined that the wages should have been reported instead by its client, Company Y. The Director shall, upon the joint request of Employee Leasing Company X and Company Y, transfer the payment made by Employee Leasing Company X to the credit of Company Y. The wages reported by the leasing company for Company Y's workers will also be credited to Company Y. As a result, Company Y will only owe additional contributions due, if any, to the extent that the amount due from it exceeds the amount paid by the employee leasing firm. To the extent that the payment by the employee leasing company was untimely or not sufficient to cover the amount due, interest shall accrue. If the amount paid by the employee leasing company exceeds the amount due from Company Y, Company Y may file a request for an adjustment or a refund of the overpayment to the extent and within the time allowed by Section 2201 of the Act.

b) Upon proper application of the client, on a form available from the Director, when wages should have been reported and contributions paid by a client, but the wages were erroneously reported and the contributions paid by an employee leasing company and the client presents evidence that the employee leasing company is no longer in business in Illinois and that the client was unable to obtain the assistance of the employee leasing company in complying with the requirements of subsection (a), the Director shall transfer available contributions from the account of the employee leasing company to the account of the client, effective as of the dates that the report was submitted and the contributions paid by the employee leasing company, respectively. As a result, interest shall be due only to the extent that the amount due from the client exceeds the amount paid by the employee leasing company and transferred to the client. For purposes of determining the amount of wages that should have been reported and contributions that should have been paid by the client, the Department shall use the amounts stated in any determination and assessment that has become final for the relevant quarters or, if none, the amount stated in an audit completed by the Department for the relevant quarters or, if none, the amounts stated in an amended wage report filed by the client. The Department shall use the total wages and wages subject to the payment of contributions stated in the determination and assessment, audit or amended wage report to adjust the employee leasing company's total wages and wages subject to the payment of contributions for each erroneously reported individual. For purposes of this subsection, available contributions, with respect to a quarter, means the product of the contribution rate used to calculate the amount of contributions that the employee leasing company paid for the quarter, multiplied by the wages on which the client should have paid contributions for the quarter, except as otherwise provided in this subsection. The amount of available contributions with respect to a quarter shall not exceed the amount of any credit standing to the employee leasing company's account for the quarter, as of the time of the application, based on the adjustment pursuant to this subsection with respect to the wages on which the client should have reported contributions. Before making a transfer pursuant to this subsection, the Department shall notify the

employee leasing company, by certified mail at its last known address, of its intention to make a transfer of contributions pursuant to this subsection. The Department shall transfer the contributions unless the employee leasing company responds with information that contradicts the information provided by the client within 20 days after the date of mailing of the notice. If the employee leasing company timely responds with information that contradicts the information provided by the client, contributions shall not be transferred unless the parties submit a joint request under subsection (a). The notice shall not be necessary if the matter has been adjudicated as described in 56 Ill. Adm. Code 2725, and the employee leasing company was added as a necessary party under Section 2725.237 of that Part and given proper notice. The total amount of contributions transferred from an employee leasing company's account to a client's account pursuant to this subsection shall not exceed $1,000,000.

EXAMPLE 1: Employee Leasing Company X erroneously reports the wages of certain workers on its wage report and pays the contributions due on these wages. It is determined that the wages should have been reported instead by its client, Company Y. Y presents evidence that X is no longer in business and that there is no one who could agree to the joint transfer of contributions. The Director shall transfer any available contributions. If the amount of contributions available in the account of X is insufficient to cover the amount of contributions owed by Y, Y must pay the unpaid contribution balance, with interest, itself.

EXAMPLE 2: Employee Leasing Company X erroneously reports the wages of certain workers on its wage report and pays the contributions due on these wages. At the time, X's contribution rate was 1%, which resulted in $100 in contributions owed. It is determined that the wages should have been reported instead by its client, Company Y. Y presents evidence that X is no longer in business and that there is no one who could agree to the joint transfer of contributions. Y's contribution rate for the year was 6%, which will result in $600 in contributions owed by Y. Upon proper application of Y, the Director shall transfer the $100 in available contributions from the account of X to the account of Y. Y must pay the $500 in unpaid contributions, with interest, itself.

EXAMPLE 3: Employee Leasing Company A had agreements with Employers B, C and D for A to assume responsibility for personnel management of workers leased to each of B, C and D during the year 2016. Company A reported the identity of its clients B and C to the Department, as required by 56 Ill. Adm. Code 2732.306, but failed to report the identity of its client D. B, C and D each had one leased worker performing services for them; each leased worker was paid $10,000 in the first quarter of 2016. A's contribution rate for 2016 was 5%. Company A timely reported to the Department the wages of the leased workers providing services to B, C and D. According to the report submitted by A, A owed a total of $1,500 in contributions for the first quarter of 2016. However, A made payments to the Department totaling only $1,200. For 2016, B, C and D each had a contribution rate of 3.75%. In 2017, it is discovered that A failed to report D's identity to the Department and, therefore, D remained liable for the payment of contributions regarding its leased worker. D presents evidence that A is no longer in business in Illinois and that there is no one who could agree to the joint transfer of contributions. Under subsection (b), the amount of contributions available for transfer to D's account cannot exceed the amount of the credit standing to A's account for the quarter, as of the time of the application, based on the adjustment with respect to the wages on which D should have reported contributions due. The amount necessary to pay the contributions owed by A for the first quarter of 2016 is $1,000 (5% x $20,000). So even though D owes a total of $375 in contributions for 2016 (3.75% x $10,000), there is only $200 in available contributions to transfer to D's account ($1,200 - $1,000). D must pay the additional $175, plus interest, itself.

c) When multiple applications have been submitted under subsection (b), the applications shall be processed in the order in which the applications were received.

d) When multiple applications have been submitted under subsection (b), available contributions shall be transferred, as they become available, to the account that submitted the application that created the available contributions.

EXAMPLE: Employee Leasing Company A had agreements with Employers B, C and D for A to assume responsibility for personnel management of workers leased to each of B, C and D during the year 2016. Company A did not report the identity of B, C or D to the Department, as required by 56 Ill. Adm. Code 2732.306. B, C and D each had one leased worker performing services for them; each leased worker was paid $10,000 in the first quarter of 2016. A's contribution rate for 2016 was 5%. Company A timely reported to the Department the wages of the leased workers providing services to B, C and D. According to the report submitted by A, A owed a total of $1,500 in contributions. However, A made payments to the Department totaling only $500. For 2016, B, C and D also had contribution rates of 5%. In 2017, it is discovered that A failed to report D's identity to the Department and, therefore, D remained liable for the payment of contributions regarding its leased worker. D presents evidence that A is no longer in business in Illinois and that there is no one who could agree to the joint transfer of contributions. Under subsection (b), the amount of contributions available for transfer to D's account cannot exceed the amount of the credit standing to A's account for the quarter, as of the time of the application, based on the adjustment with respect to the wages on which D should have reported contributions due. At the time of D's application, the Department was not aware of A's relationship to B and C, or A's failure to report its relationship with B and C, and there was no credit standing to A's account. At the time of D's application, it appeared that the employee leasing company should have paid contributions of $1,000 for the first quarter of 2016. Since A paid only $500, there are no funds available to transfer to D. Subsequently, the Department discovers A's relationship with C, and the fact that the relationship was not properly reported to the Department, as required by 56 Ill. Adm. Code 2732.306. C's wages are removed from A's account, but still, there are no contributions available to transfer to C's account. At the time of C's application, it appears that A owes $500 in contributions for the first quarter of 2016. Since that is all A paid for the quarter, there is no credit standing to its account. Subsequently, the Department discovers A's relationship with B, and the fact that the relationship was not properly reported to the Department, as required by 56 Ill. Adm. Code 2732.306. B's wages are removed from A's account, which creates a credit balance of $500 in A's account. The available balance will transfer to the account of B.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.65 Waiver Of Interest Or Penalty

a) The Director is authorized to waive the payment of all or part of any interest or penalty upon proposed application and showing of good cause that consists of any or all of the following:

1) Where the delay was caused by the death or serious illness of the employer or a member of his immediate family, or by the death or serious illness of the person in the employer's organization responsible for the preparation and filing of the report or for making the payment.

2) Where the delay was caused by the destruction of the employer's business records by fire or other casualty without fault.

3) Where the Agency, in its written communication or through a specifically identified employee in oral communication directed to a specific employer account has affirmatively misled the employer as to its duties and obligations such that the charging of interest to the employer would violate the principle of equitable estoppel.

4) For the purposes of waiver of interest only: Where the employer relied to its detriment on a certificate issued by the Director pursuant to Section 2600 of the Act and the Director agrees, at a later date, that the certificate was issued in error, such waiver shall be granted from the date the erroneous certificate was issued to a date 30 days after notice that the original certificate was issued in error.

b) Where a delinquent employer enters into a Repayment Agreement and demonstrates to the Director the financial inability to pay an additional interest during the period of the Repayment Agreement, the Director may waive the interest which would have accrued during the period of the Repayment Agreement. The employer shall submit as evidence of its inability to pay:

1) Where available, a certified audit and statement of financial condition; or,

2) A copy of latest one year tax return and sworn statement regarding inability to pay and financial condition of business; and,

3) A statement that the financial condition could not have been controlled through reasonable business judgment and the evidence supporting this statement; and,

4) Evidence that it has paid all contributions accrued to date not subject to the Repayment Agreement.

c) The Director is authorized to grant a waiver of such additional interest for the period of the Repayment Agreement if his review of the evidence indicates that the payment of the additional interest imposed will force the employer to default on the agreement or force the employer into bankruptcy. If the employer fails to make the required payment of accrued contributions, interest and penalty during the period of the Repayment Agreement, such waiver of the additional interest is withdrawn.

d) The penalty for willful failure to pay contributions with intent to defraud cannot be waived by the Director for any cause.

(Source: Amended at 11 Ill. Reg. 12882, effective July 22, 1987)

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Section 2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988

a) The Director shall find good cause for the waiver of all interest, accrued upon unpaid contributions which are due and owing for any period prior to January 1, 1988, if the contributions were based on the payment of wages in employment to an individual where:

1) The employer or its predecessor has not treated any individual holding a substantially similar position as an employee for purposes of the Act, or for Federal Unemployment Tax Act (FUTA), Internal Revenue Code or Social Security Act purposes, and;

2) The employer's treatment of such individual was in reasonable reliance upon:

A) A judicial precedent or an Internal Revenue Service letter ruling for the employer; or,

B) A past agency audit of such employer where there was no assessment attributable to the treatment of individuals holding positions substantially similar to the position held by such individual; or,

C) A long-standing industry practice recognized by a significant segment of the industry in which such individual or employer is engaged.

3) Example: Pursuant to this subsection, an employer requests a waiver of interest on contributions which were due and owing for the first quarter of 1987. Contributions for the first quarter of 1987 became due and owing on April 30, 1987 but had not been paid because the employer appealed a determination and assessment covering this period. The waiver, if granted would cover all interest which accrued from May 1, 1987 through the date that payment of the contributions was made. The employer must pay all contributions due for the first quarter of 1987 as a condition precedent to the granting of a waiver.

b) The provisions of Section 2765.74 shall not be applicable to requests for waiver under this Section.

c) The payment of all contributions assessed, within 30 days from the effective date of this Section or within 30 days from the date that such assessment becomes final, if such date is later, is a condition precedent to an application for waiver (see Section 2765.75) pursuant to this Section.

1) Example: During the course of a hearing pursuant to 56 Ill. Adm. Code 2725.200 et seq., the employing unit requests, on the record, that, if the subject assessment is affirmed, in full or in part, it be granted waiver pursuant to this Section. If it is recommended that the assessment be affirmed, in full or in part, the Director's Representative shall also recommend a decision with respect to the request for waiver. If such recommendation is to deny, objections may be filed in the same manner and within the same time limits as set forth in 56 Ill. Adm. Code 2725.275. If the request for waiver is granted, but the contributions assessed are not paid within 30 days from the date that the assessment becomes final, then the request for waiver shall be deemed to have been denied as of the date of the decision which had granted the waiver.

2) Example: An employer meets the requirements for waiver pursuant to subsection (a) above with respect to wages for services which were the subject of a determination and assessment which became final on February 13, 1988. If this employer has not yet paid this assessment, it has 30 days from the

effective date of this rule to pay the contributions due and file its application for waiver.

3) Example: An employer meets the requirements for waiver pursuant to subsection (a) with respect to wages for services which are the subject of a determination and assessments which becomes final after the effective date of this rule. This employer has 30 days from the date that this assessment becomes final to pay the contributions due and file its application for waiver.

d) Notwithstanding any other provisions of this Part, no employer shall be entitled to a refund or credit of any interest paid prior to the adoption of this Section.

(Source: Amended at 17 Ill. Reg. 308, effective December 28, 1992)

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Section 2765.67 Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages To The Wrong State

Where wages should have been reported to Illinois, but the employer has erroneously reported these wages to another state, if such employer makes payment of all contributions, penalties and interest (except the amount of interest that is subject to waiver under this Section) due within 30 days after the date that notice of its erroneous reporting is mailed to the employer, the Director shall waive interest to the extent that the amount of interest due exceeds the amount of interest that would have been due if the rate of interest imposed were the same as the rate of interest paid by the Secretary of Treasury on amounts held by the Secretary in the federal Unemployment Trust Fund during the same period.

Example: Employer A erroneously reports the wages of certain workers on its Iowa Unemployment Insurance Contributions Reports. It is determined that such wages should have been reported under the Illinois Unemployment Insurance Act. If this employer pays all contributions, penalties and interest due under the Illinois Act within 30 days after being notified of its erroneous reporting, the Director will waive any interest in excess of the amount of interest that would have been credited to Illinois if the employer's contributions had been credited to this State's account in the federal Unemployment Trust Fund as of the date that the contributions were due.

(Source: Added at 16 Ill. Reg. 12165, effective July 20, 1992)

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Section 2765.68 Waiver of Penalty for Certain Employers for 1987 and Thereafter Wage Reports

a) Notwithstanding any other provisions of this Part to the contrary, the Director shall waive the reporting penalty provided in Section 1402 of the Act for 1987 and for any reports of wages paid in calendar year 1987 and any calendar year thereafter, if the employer, within 30 working days after the date of mailing of the notice from the Agency that its report is delinquent, shows that the delinquent report is the employer's first late report during the last 20 calendar quarters, including quarters during which the employer was not required to file reports under the Act and:

1) in the case a contributory employer, the total amount of contributions due for the calendar quarter of the report is less than $500 (the amount due is disregarded for reimbursable employers); and

EXAMPLE: Employer A is required to file two reports for a quarter under 56 Ill. Adm. Code 2760.120. The total amount of contributions attributable to the first report is $400. The total amount of contributions attributable to the second report is $200. Employer A will not be entitled to waiver of penalty under this Section with respect to either report because the total amount of contributions due for the quarter is more than $500.

2) This delinquent report is the employer's first late report during the last 20 calendar quarters, including quarters during which the employer was not required to file reports under the Act.

b) The employer's application for this waiver shall be made in the form provided in Section 2765.75, except that it need not be sworn and instead of stating the "good cause applicable", the employer shall state that it met the requirements of subsections (a)(1) and (2). In support of its statement that it met the requirements of subsection (a)(1), the employer shall attach a copy of its Contribution and Wage Report for the applicable calendar quarter.

c) If the employer is required to file two reports under 56 Ill. Adm. Code 2760.120 and both reports are filed untimely, for the purposes of subsection (a)(2), both reports will be deemed to be a single delinquent report.

d) For purposes of subsection (a), a month for which the late filing penalty has been waived under any provision of Section 2765.62 shall not be considered a month for which the employer filed a late report.

(Source: Amended at 44 Ill. Reg. 13339, effective July 28, 2020)

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Section 2765.69 Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois Unemployment Insurance Contributions

Where an employer has erroneously failed to pay its Illinois Unemployment Insurance contributions when due but instead timely paid the full amount of its Federal Unemployment Tax Act (FUTA) liability (6.2% for 1990) and that employer pays the full amount of any contributions, penalties and interest (except the amount of interest that is subject to waiver under this Section) due within 30 days after the date that notice of its failure to pay its Illinois Unemployment Insurance contributions is mailed to the employer, the Director shall grant a partial waiver of interest from the date that the employer made its FUTA payment. The extent of that waiver shall be the amount by which the amount of interest due exceeds the amount of interest that would have been due if the rate of interest imposed were the same as the rate of interest paid by the Secretary of Treasury on amounts held by the Secretary in the federal Unemployment Trust Fund during the same period.

Example: On January 31, 1990, Employer A erroneously pays the full FUTA amount on all of the wages that it paid in 1989 which were subject to that Act. On March 31, 1990, the Director notifies this employer that it has failed to pay its Illinois Unemployment Insurance contributions for 1989. If this employer pays the full amount of contributions, penalties and interest due in this matter by April 30, 1990, the Director will waive the interest due for the period from January 31, 1990 to the date of payment, to the extent that the amount of interest due exceeds the amount of interest that would have been due if the rate of interest imposed were the same as the rate of interest paid by the Secretary of Treasury on amounts held by the Secretary in the federal Unemployment Trust Fund during the same period.

(Source: Added at 16 Ill. Reg. 12165, effective July 20, 1992)

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Section 2765.70 Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental Entities

a) The Director shall waive interest on any unpaid contributions for a nonprofit organization, as defined in Section 211.2 of the Act, or a local governmental entity, as determined under Section 211.1 of the Act, if:

1) The organization or entity had never filed any of the reports or forms required of it under the Act; and

2) No unemployment insurance claims had been filed for which it is determined that the organization or entity was the chargeable employer as that term is used in Section 1502.1 of the Act; and

3) The chief operating officer of the organization or entity files an affidavit with the Director in which he states that, upon learning of the organization or entity's liability under the Act, he took immediate action to bring the organization or entity into compliance.

Example: Nonprofit organization A was created in 1985. Because it is not liable under the Federal Unemployment Tax Act (FUTA), it believed that it was not liable for state unemployment insurance contributions. As a result of an audit in 1992, it is determined the organization was liable since 1985 and owes unpaid contributions since 1989. If the organization had never filed any reports or forms required of it under the Act, if it had never been found to be a chargeable employer and if the chief operating officer tenders the appropriate affidavit, any interest on the unpaid contributions will be waived.

b) Any waiver of interest under this Section shall cover the period up to sixty days after the date that the organization or entity became aware of its liability under the Act. To stop further interest from accruing after that time, the organization or entity must pay the contributions due in full. However, nothing in this Section shall be interpreted as prohibiting an employer from seeking waiver of any additional interest under the other provisions of this Part.

(Source: Section repealed, new Section adopted at 17 Ill. Reg. 308, effective December 28, 1992)

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Section 2765.71 Waiver of Interest Accruing Due to a Delay in the Issuance of a Decision on a Protested Determination and Assessment

a) The Director shall find good cause for the waiver of all interest accrued upon unpaid contributions due and owing pursuant to a Determination and Assessment for any period from the 181st day after the date on which the employer filed its sufficient Petition in protest to the Determination and Assessment (see 56 Ill. Adm. Code 2725.110) to 60 days after the later of the date of the decision of the Director in the matter (see 56 Ill. Adm. Code 2725.280) or the date that the Department mails the employer a statement of the balance due on its account as a result of the recommended decision in the matter (see 56 Ill. Adm. Code 2725.270) or the decision of the Director in the matter, but only to the extent that the delay was not caused by the employer or its agent.

1) EXAMPLE 1: The employer files its sufficient Petition to protest a Determination and Assessment on March 1, 2017. After completion of the administrative process within the Department, a decision of the Director, affirming the Determination and Assessment, is issued on October 16, 2017. On October 19, 2017, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. Pursuant to this subsection (a), this employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its Petition) to December 15, 2017 (60 days after the Department mailed the employer a statement of the balance due on its account as a result of the decision of the Director).

2) EXAMPLE 2: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. A hearing is scheduled for April 3, 2017. The employer's accountant is not available on April 3, 2017, so the employer requests a continuance until April 5, 2017. Because the Director's representative already has hearings scheduled for the month of April, a continuance is granted until May 12, 2017, the next available hearing date. After completion of the administrative process within the Department, a decision of the Director, affirming the Determination and Assessment, is issued on October 16, 2017. On the same day, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. Pursuant to this subsection (a), this employer will be entitled to a waiver of interest from October 7, 2017 (the 181st day after the date on which the employer filed its petition plus the 39 day delay attributable to the employer's request for a continuance) to December 15, 2017.

3) EXAMPLE 3: An employer association requests that the Director not make any decision on Determination and Assessments based on a particular issue while the legislature is discussing a possible change in the statute on that issue. Any delays in issuing decisions on that particular issue caused by the Director agreeing to hold those cases are not attributable to the employer or its agent.

4) EXAMPLE 4: On March 1, 2017, an employer files a sufficient Petition to protest a Determination and Assessment. A hearing is held on April 3, 2017. At the conclusion of the hearing, the employer's attorney requests 45 days in which to submit a brief in support of its position. Because this additional delay is attributable to the agent of the employer, these additional days are added in determining the extent of waiver to be granted to this employer.

b) The provisions of Section 2765.74 shall not be applicable to requests for waiver under this Section.

c) The payment of all contributions assessed, all penalties due and any interest not subject to waiver, within 60 days after the date of the decision of the Director or the date that the Department mails the employer

a statement of the balance due on its account as a result of the decision of the Director in the matter, whichever is later, is a condition precedent to a waiver of interest pursuant to this Section.

EXAMPLE: On July 1, 2016, an employer files a sufficient Petition in protest to a Determination and Assessment. The Director issues a decision affirming the Determination and Assessment on March 1, 2017. On the same day, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. In the decision, the Director grants a conditional waiver under this Section from December 29, 2016 to April 30, 2017. December 29, 2016 is the 181st day after the date on which the employer filed its sufficient Petition in protest to the Determination and Assessment. If this employer has not yet paid this assessment, it has until April 30, 2017 to pay the contributions due. If the contributions are not paid by April 30, 2017, the condition precedent is not met, and the employer is not entitled to waiver under this Section.

d) The granting of waiver under this Section does not foreclose the granting of waiver to the employer under another Section of this Part for another period.

e) When no objection is filed to the recommended decision of the Director's representative and that recommended decision becomes the decision of the Director pursuant to 56 Ill. Adm. Code 2725.270(d), the date of the Director's decision shall be the date on which the recommended decision of the Director's representative becomes the decision of the Director.

EXAMPLE 1: The recommended decision of the Director's representative is issued on October 2, 2017. If no objections are filed by October 22, 2017, the recommended decision becomes the decision of the Director on October 23, 2017. October 23, 2017 is the date of the decision of the Director.

EXAMPLE 2: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. The recommended decision of the Director's representative is issued on October 2, 2017. The employer calls the Department on October 3, 2017 to ask for a statement of the balance due on its account as a result of the recommended decision. The Department mails the employer the statement on October 4, 2017. The employer does not file objections by October 22, 2017, so the recommended decision becomes the decision of the Director on October 23, 2017. This employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its petition) to December 22, 2017 (60 days after the date of the decision of the Director).

EXAMPLE 3: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. The recommended decision of the Director's representative is issued on October 2, 2017. The employer calls the Department on October 3, 2017 to ask for a statement of the balance due on its account as a result of the recommended decision. The Department mails the employer the statement on November 6, 2017. If no objections are filed by October 22, 2017, the recommended decision becomes the decision of the Director on October 23, 2017. This employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its Petition) to January 5, 2018 (60 days after the Department mailed the employer a statement of the balance due on its account as a result of the decision of the Director).

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.73 Waiver of Penalties and Interest for Certain Nonprofit Organizations

a) Upon application of an employer, the Director shall find good cause to grant a conditional waiver of any reporting penalty required by Section 1402 of the Act and any interest owed by the employer with respect to contributions due, and interest on past due payments in lieu of contributions, for quarters prior to calendar year 2014 and specified in the conditional waiver, provided the following conditions are met:

1) the employer is an Illinois nonprofit organization, as that term is used in Section 211.2 of the Act, and a local affiliate of a national organization that holds a congressional charter under 36 USC, whose purpose is to promote the health, social, educational, vocational, and character development of youth;

2) the employer experienced a decrease of more than $50,000 from its prior fiscal year in the value of its total net assets in:

A) each of the employer's two fiscal years preceding the first quarter specified in the conditional waiver; and

B) each of at least two of the employer's fiscal years that include one or more quarters specified in the conditional waiver; and

3) the losses described in subsection (a)(2) are established by certified, audited statements of the financial condition of the employer.

b) The Director shall waive penalties and interest covered by a conditional waiver granted under subsection (a) upon payment, within four years after the date on which the conditional waiver is granted, of the full amount of all contributions and payments in lieu of contributions due for the quarters specified in the conditional waiver.

c) A conditional waiver granted under subsection (a) shall be revoked by the Director when:

1) payment of the contributions due, and past due payments in lieu of contributions, for the quarters specified in the conditional waiver is to be made pursuant to a deferred payment agreement and the employer commits a substantial breach of that agreement; or

2) the employer fails to timely pay contributions or payments in lieu of contributions due for quarters not specified in the conditional waiver.

d) Notwithstanding subsection (a), the Director shall not grant more than one conditional waiver of interest with respect to contributions due, or past due payments in lieu of contributions, for the same quarter.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.74 Time for Paying or Filing Delayed Payment or Report

In order to obtain a waiver of all or part of any penalty, the employer must (in addition to filing an application for waiver as provided in Section 2765.68 or 2765.75) file the delayed report within 30 days after the date of the resolution of the occurrence or event relied upon as a ground for waiver. In order to obtain a waiver of all or part of any interest, the employer must (in addition to filing an application for waiver as provided in Section 2765.75), except if the ground for waiver is Section 2765.65(c), make the late payment of all contributions due and file all wage reports for the period covered by the waiver within 30 days from the date of the resolution of the occurrence or event relied upon as a ground for waiver.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.75 Application for Waiver

In order to obtain a waiver of all or part of any interest or penalty, the employer must file a signed written application for waiver of the interest or penalty, or both, with the Department within the time limits set forth in Section 2765.74. The application should be filed online using MyTax Illinois (mytax.illinois.gov) or by mail to the Illinois Department of Employment Security, in care of the Revenue Division, at the address stated in 56 Ill. Adm. Code 2712.10. An application is not complete unless it contains the name and address of the employer, the U.I. account number, the period involved and the good cause applicable. The late payment or missing report, as provided in Section 2765.74, must accompany the application. If an application for waiver has been timely filed, an employer may file additional information to be considered as part of its application within 30 days after filing the application.

(Source: Amended at 49 Ill. Reg. 11153, effective August 20, 2025)

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Section 2765.80 Approval Of Application For Waiver

If the good cause relied upon in the application is sufficiently demonstrated by verifiable facts and circumstances, or supported by documentary evidence, such as a medical doctor's certificate, death certificate, or photocopies of the proof of casualty, the Director shall approve the application and issue an order granting the waiver.

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Section 2765.85 Insufficient or Incomplete Application

If the application contains an allowable good cause but otherwise is insufficient or incomplete in other respects, the employer has 15 days after the date of the Director's notice of application deficiency within which to file an amended application based on the same ground. If an amended application for waiver has been timely filed, an employer may file additional information to be considered as part of its amended application within 30 days after the period for filing an amended application for waiver has ended.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.90 Disapproval Of Application Conclusive

An order disapproving an application for lack of good cause, because the amended application alleges a good cause not timely alleged in the original application or because the application fails to meet the requirements for waiver set forth in Section 2765.68 shall be final and conclusive upon the employer unless he shall file an appeal therefrom with the Revenue Division within twenty days from the date of mailing of the order.

(Source: Amended at 12 Ill. Reg. 20484, effective November 28, 1988)

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Section 2765.95 Appeal And Hearing

The conduct of the appeal and hearing will be the same as that provided for Determination and Assessment under 56 Ill. Adm. Code 2725.

(Source: Amended at 11 Ill. Reg. 12882, effective July 22, 1987)

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SUBPART B: EXPERIENCE RATING

Section 2765.200 Transfer of Trade or Business Subject to Section 1507.1 of the Act

a) Within 30 days after the date of any transfer to which Section 1507.1(A)(1) of the Act applies, the transferor and transferee shall provide the Department the number of covered workers employed by the transferor on the last day of business immediately preceding the date of transfer and the number of those workers transferred to the transferee.

b) In the case of a transfer to which Section 1507.1 (A)(1) of the Act applies:

1) Of the benefit charges that were incurred by the transferor, and wages that were paid by the transferor for insured work, for each calendar quarter prior to the quarter in which the transfer takes effect:

A) the percentage apportioned to the transferee shall equal the percentage of the covered workers transferred to the transferee; and

B) the percentage apportioned to the transferor shall equal;

i) the difference between 100% and the percentage apportioned to the transferee pursuant to this subsection (b)(1); or

ii) in the case of multiple transferees, the difference between 100% and the percentage apportioned to the transferees pursuant to this subsection (b)(1).

2) Of the benefit charges that were incurred by the transferor, and wages that were paid by the transferor for insured work prior to the transfer, for the calendar quarter in which the transfer takes effect;

A) the percentage apportioned to the transferee shall equal the percentage of the covered workers transferred to the transferee multiplied by the quotient obtained by dividing the number of the days elapsed in the quarter as of the day of the transfer, including the day of the transfer, by the total number of days in the quarter, rounded to the nearest multiple of .0001% (e.g., if the transfer occurred on November 7, the quotient would be 41.3043% because the transfer occurs on the 38th day of the quarter and there are 92 days in that quarter); and

B) the percentage apportioned to the transferor shall equal:

i) the difference between 100% and the percentage apportioned to the transferee pursuant to this subsection (b)(2); or

ii) in the case of multiple transferees, the difference between 100% and the percentage apportioned to the transferees pursuant to this subsection (b)(2).

EXAMPLE: On November 7, 2017, Employer A transfers 30.0000% of its covered workers to Employer B. At the time of the transfer, there was substantial common ownership, management, or control of Employers A and B. Thirty percent of the benefit charges incurred by A, and 30.0000% of the wages paid by A for insured work, for all quarters prior to the 4th quarter of 2017, will be transferred to Employer B. For the 4th quarter of 2017, since there are 92 days in the quarter, and since the transfer occurred on the 38th day of the quarter, 12.3913% of the benefit charges Employer A

incurred, and 12.3913% of the wages Employer A paid for insured work, prior to the transfer, for the quarter (30.0000% of 41.3043%) will be apportioned to Employer B. The remainder will be apportioned to Employer A.

3) For purposes of this subsection (b), the percentage of covered workers transferred to the transferee shall equal the number of covered workers employed by the transferor on the last day of business immediately preceding the date of transfer divided into the number of those workers transferred to the transferee. The percentage shall be calculated to the nearest multiple of .0001% and, if equally near to 2 multiples of.0001%, increased to the higher multiple of .0001%;

   EXAMPLE: Employer A has 165 covered workers as of November 6, 2017. On November 7, 2017, Employer A transfers 11 of those workers to Employer B. The percentage of the covered workers transferred to Employer B equals 6.6667 percent (11 divided by 165 equals 0.06666667 calculated to 8 decimal places and equals 6.6667% rounded to the nearest multiple of .0001%).

4) As of the effective date of the transfer, the transferor and transferee shall each be considered to have been liable for the payment of contributions during each calendar year during which the transferor was liable for the payment of contributions.

   EXAMPLE: Employer A incurred liability for the payment of contributions in each of the calendar years 2010 through 2017. Prior to the transfer, Employer B incurred liability for the payment of contributions in calendar year 2017. On May 7, 2017, Employer A transfers a portion of its trade or business to Employer B. At the time of the transfer, there was substantial common ownership, management, or control of Employers A and B. As a result, Employers A and B will have incurred liability for the payment of contributions in each of the calendar years 2010 through 2017.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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Section 2765.210 Prohibition on Withdrawal of Joint Application for Partial Transfer of Experience Rating Record

A joint application for partial transfer of the predecessor's experience record, pursuant to Section 1507B of the Act, cannot be withdrawn after it has been submitted to the Director.

a) EXAMPLE: After filing a joint application for partial transfer of the predecessor's experience rating record, one of the applicants determines that the partial transfer will result in an increase in its contribution rate. Notwithstanding the increase in its contribution rate, the applicant cannot request to withdraw its joint application for the partial transfer of the predecessor's experience rating record.

b) EXAMPLE: After the filing of a joint application for partial transfer of the predecessor's experience rating record, the Agency determines that the provisions of Section 1507B of the Act are met but that an affiliation (as described in the last paragraph of Section 1507B of the Act) exists, an applicant cannot request to withdraw its joint application for the partial transfer of the predecessor's experience rating record.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.220 Determination of Benefit Ratio

In determining the benefit wage or benefit ratio referred to in Section 1503.1 of the Act for any calendar year, the resulting percentage shall be increased or reduced, as the case may be, to the nearer multiple of one-ten thousandth of one percent. If the number is equally near to 2 multiples of one-ten thousandth of one percent, it shall be increased to the higher multiple of one-ten thousandth of one percent.

EXAMPLE: An employer has incurred liability for the payment of contributions within each of the three calendar years immediately preceding calendar year 1991. Its benefit charges for the 12 consecutive month period ending on June 30, 1990 are $1,659.00. The benefit conversion factor for this period is 139%. The product of its benefit charges times the benefit conversion factor for this period is $2,306.01. Its taxable wages for this period are $340,590.00. Its benefit ratio determined by dividing $2,306.01 by $340,590.00 equals .67706% when calculated to one-hundred thousandths of one percent. Under the rounding rule set forth in this section, its benefit ratio is increased to .6771%.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.225 Requirement for Privity in Order to Have a Predecessor Successor Relationship
In order for a predecessor successor relationship to exist under Section 1507 of the Act, there must be privity between the predecessor employing unit and the successor employing unit.

a) EXAMPLE: AAA Oil Company, that owns all the equipment and inventory at a gas station, leases the station to Company B that becomes a liable employer under the Act. When Company B's lease expires, AAA Oil Company refuses to renew the lease and, instead, leases the station to Company C. Company C is not a successor to Company B because there is no privity between Company B and Company C.

b) EXAMPLE: Mr. Johnson operates a restaurant. Bank A has a chattel mortgage on the fixtures of the restaurant and Bank B has a mortgage on the building that houses the restaurant. Both Bank A and Bank B foreclose on their mortgages and Mr. Johnson goes out of business. The banks sell their interests in the restaurant fixtures and building to Mr. Moore who opens another restaurant at this same location. Mr. Moore is not a successor to Mr. Johnson because there is no privity between Mr. Moore and Mr. Johnson.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.228 No Requirement for Continuous Operation in Order for a Predecessor Successor Relationship to Exist

The employing enterprise that forms the basis for a predecessor successor relationship under Section 1507 of the Act is not required to be operated without interruption during the time that predecessor employing unit is succeeding to the employing enterprises in order for the relationship to exist. However, any interruption in operations must be reasonable in light of the particular industry and, under no circumstances, may exceed one year.

a) EXAMPLE: In April, 1991, Mr. Stella purchases a cafe owned by Ms. Pauli. Mr. Stella decides that the cafe must be remodeled prior to his operating the business. Such remodeling takes three months. This three month gap in the operation of the cafe does not preclude Mr. Stella from being the successor to Ms. Pauli if the three month remodeling period is not unreasonable in the restaurant industry.

b) EXAMPLE: In February, 1991, S Company purchases the concession business at a county fairgrounds from P Company. This business normally operates between May and September. The gap between the date of purchase and the time that the business begins to operate in May will not preclude S Company from being found to be a successor to the employing enterprise of P Company.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.230 Effect of a Transfer of Physical Assets on a Finding That a Predecessor Successor Relationship Exists

In order for a predecessor successor relationship under Section 1507 of the Act to exist, it is not necessary that there be a transfer of physical assets from one employing enterprise to another. However, when only physical assets are transferred, without the transfer of good will, the assumption of obligation or the continuation of the enterprises, no predecessor successor relationship exists.

a) EXAMPLE: Abe and Bill operate a partnership, known as A & B House Painters, that is an employer under the Act. When the partnership dissolves, Abe retains title to the physical assets which he then sells. Bill, now a sole proprietor, continues to operate the employing enterprise by continuing to service the customers of the partnership. Even though he received none of its physical assets, Bill is a successor to the partnership.

b) EXAMPLE: Alice and Bert operate a partnership, known as A& B House Painters, which is an employer under the Act. When the partnership dissolves, Alice retains title to the physical assets which she then sells to Clyde who also operates a house painting business. Clyde does not obtain any of the good will of A & B nor does he service any of its customers. Clyde is not a successor to A & B.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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SUBPART C: BENEFIT CHARGES

Section 2765.325 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 of the Act

a) Except as provided in the other subsections of this Section and in Sections 2765.326, 2765.332, 2765.333 and 2765.334, the last employer prior to the beginning of the individual's benefit year (which is defined at Section 242 of the Act) for whom the individual provided services during at least 30 days beginning with the first day of the individual's base period (which is defined at Section 237 of the Act) but prior to the beginning of his benefit year shall be liable for the benefit charges or payments in lieu of contributions, as the case may be, which result from any benefits paid to that individual.

1) Example: Immediately prior to filing his claim for unemployment benefits, the individual provides services to Company A, a liable, contributing employer, for 20 days. Prior to this period, he provides services to Company B, a liable, contributing employer, for 30 days. Prior to working for Company B and throughout his base period, the individual has provided at least 10 days of service to Company A. In this example, Company A will be the chargeable employer and will be liable for any benefit charges which might accrue as a result of any benefits paid to this individual. This is because the individual's last employer prior to the beginning of his benefit year is Company A and he provided services to Company A during at least 30 days during the period from the beginning of the individual's base period to the beginning of his benefit year. Pursuant to Section 1502.1 of the Act, it is not necessary for the 30 days of services by the individual to be consecutive.

2) Example: Prior to the beginning of his benefit year, the individual provides services only to Company A, a liable, contributing employer, for over ten years. Company A will be this individual's chargeable employer with respect to this individual's entire benefit year because Company A is the individual's last employer of at least 30 days prior to the beginning of his benefit year. If, after claiming benefits for a few weeks, this individual is employed by Company B, a liable, contributing employer, for six months, is laid off by Company B and files an additional claim, Company A will still be the chargeable employer of this individual with respect to any benefit charges which might accrue with respect to the additional claim. Company A remains liable for the benefit charges which accrue during the entire benefit year regardless of the number of times that the individual is laid off and becomes reemployed.

3) Example: Prior to the beginning of his benefit year, the individual is employed on an as-needed basis (some weeks the individual might work four days, other weeks he might not work at all) for Company A, a liable, contributing employer. While so employed by Company A, the individual is also employed on a full time basis for Company B, a liable, contributing employer. The individual is laid off by Company B and is offered two days of work by Company A. After working for these two days, no other work is currently available with Company A, and the individual files a claim for benefits. If the individual has been employed by Company A for at least 30 days from the beginning of his base period to the beginning of his benefit year, Company A will be liable for any benefit charges which might accrue as a result of any benefits which might be paid to this individual. This is because, despite the individual's full time employment with Company B, the individual's last employer for whom he provided services of at least 30 days during the applicable period was Company A, and it was his separation from Company A that caused the individual to become "unemployed."

4) Example: Assume the same facts as in subsection (a)(3), except that, instead of being an as-needed employee, the individual continues to provide less than full time services to Company A and earns

less than his weekly benefit amount. In that case, Section 2765.326 shall apply, and Company B will be the chargeable employer because it caused this individual to become unemployed as defined in Section 239 of the Act.

5) Example: The individual is a substitute teacher. Whenever she is available to teach, she calls in for assignments with her school district, a local governmental entity which has elected to make payments in lieu of contributions. During the first semester of the school year, she teaches only 32 days. She, however, did not work for the school district during her base period. If she now files a claim for benefits, her school district will be liable for 50% of any payments in lieu of contributions which would result if she would be paid benefits. This is because, despite her services being performed over a five month period, the school district is the last employer prior to the beginning of her benefit year and she has provided the required 30 days of services during the applicable period. The employer is only liable for 50% of the amount of the benefits paid because the individual performed no services for this employer during her base period (see Section 1405(B) of the Act.)

6) Example: The individual is employed for 25 days during his base period for City A, a local governmental entity which has elected to make payments in lieu of contributions. He then works for Company B, a liable, contributing employer for approximately ten months. After being laid off by Company B, he is again employed by City A which then lays him off after five days. City A will be liable for payments in lieu of contributions equal to 100% of the benefits paid to this individual. This is because City A is the individual's last employer prior to the beginning of his benefit year, and this individual was employed for at least 30 days beginning with the start of his base period and prior to the beginning of his benefit year. City A is liable for 100% of the benefits paid because, in addition to being the chargeable employer as provided in this subsection, the individual also provided services for this employer during his base period. If this employer had met the requirements to be the chargeable employer but this individual had not provided services to this employer during his base period, then this employer would have been liable for only 50% of the payments in lieu of contributions made to this individual as in subsection (a)(5).

7) Example: The individual is employed by several different employers from the beginning of his base period until he first files a claim for benefits. However, he does not provide services for at least 30 days to any single employer during this period. Therefore, there is no chargeable employer, and no employer will be liable for either the benefit charges or payments in lieu of contributions as a result of payments made to this individual during this claim for benefits.

8) Example: An individual is employed during his entire base period for Company A, a liable, contributing employer. After being laid off by Company A, he works for at least 30 days for the State of Illinois, which makes payments in lieu of contributions pursuant to Section 1403 of the Act. If this individual files a claim for benefits, the State of Illinois will be liable for an amount equal to 50% of the benefits paid to this individual since the State of Illinois is the chargeable employer but not a base period employer.

b) If the last organization or person for whom the individual provided at least 30 days of service is not an employer, as defined by Section 205 of the Act, then no employer shall be the chargeable employer, and any benefit charges or payments in lieu of contributions which accrue as a result of benefits paid to the individual shall not become the benefit charges or the amounts due of any employer. Whether the last organization or person for whom the individual provided at least 30 days of service is an employer, as defined by Section 205 of the Act, is determined as of the effective date of the claim and is unaffected by

a later determination of liability based on events which occur after the effective date of the claim.

1) Example: An individual is employed during his entire base period for Company A, a liable, contributing employer. He then leaves Illinois and obtains work in California for at least 30 days for an organization which is not liable under the Act. If this individual is laid off from his California job and files a claim against Illinois based on his Illinois base period wages, no employer shall be liable for any benefit charges for any benefit payments made to this individual. This is because the California organization is not an employer under the Act and, therefore, cannot be the chargeable employer under this Section.

2) Example: An individual is employed during his entire base period for Company A, a liable, contributing employer. After being laid off by Company A, he works for at least 30 days for the U. S. Postal Service, which is not an employer under the Act and for which reimbursement for any benefits paid is determined pursuant to Federal Regulations. He is then laid off by the Postal Service. If this individual files a claim for benefits, no employer shall be liable for any benefit charges for any benefit payments made to this individual. This is because the U. S. Postal Service is not an employer under the Act and, therefore, cannot be the chargeable employer under this Section.

3) Example: An individual files a claim for benefits, effective March 11, 1990, after having last been employed by Company A which began business as of January 1, 1990. As of March 11, 1990, Company A is not an employer under the Act because it has not yet had one or more employees in each of twenty or more weeks nor has it paid at least $1,500 in wages in a calendar quarter. However, as of September 10, 1990, it has one or more employees in each of twenty or more weeks, and, therefore, its liability is made retroactive to January 1, 1990. In this case, Company A will not be the chargeable employer because its liability is a result of a retroactive determination based on events subsequent to the effective date of the individual's claim.

4) Example: An individual files a claim for benefits, effective March 11, 1990, after having last been employed by Company A which claims that it is not liable under the Act because it has no employees. On September 10, 1990, there is a determination and assessment, which becomes final, which holds that Company A is liable for unpaid contributions on the wages of workers whom Company A had not considered employees. This is not a retroactive determination, and Company A can be held to be the chargeable employer of this individual.

c) Notwithstanding any other provision of this Subpart, no employer shall be the chargeable employer of an individual who was either discharged for misconduct connected with the work or voluntarily left such employer without good cause or refused to accept an offer of or to apply for suitable work from that employer without good cause. Unless the next subsequent employing unit, if it is an employer under the Act and paid the individual an amount equal to his weekly benefit amount in each of four weeks after the beginning of the individual's benefit year, any payments which might result in benefit charges will be pooled and not charged to any employer. However, if the circumstances of the voluntary quit are those described in Section 601(B)(1) or Section 601(B)(2) of the Act, then, any payments which might result in benefit charges will become pooled costs and not be charged to any employer.

1) Example: The individual quits Company A where he was employed for at least 30 days. He then accepts employment with Company B where he works for two weeks and earns in excess of his weekly benefit amount. He is then laid off and files a claim for benefits. Pursuant to Section 601(B)(2) of the Act, this individual is not ineligible for benefits. However, if it is decided that the

individual quit this job without good cause, no employer will be charged for the benefits paid to the individual. This is because the individual quit his job with Company A without good cause but under the circumstances described in Section 601(B)(2) of the Act.

2) Example: The individual is held to be ineligible for benefits by the claims adjudicator, Referee, Board of Review or court as a result of his discharge for misconduct by Company A, a liable, contributing employer. Thereafter, he returns to work and performs services for Company B, a liable, contributing employer, for three days per week for three weeks and is then laid off. However, he does earn an amount in excess of his weekly benefit amount in each of these weeks. He then performs services for Company C for one week and earns in excess of his weekly benefit amount before being laid off for lack of work. The individual is eligible for benefits because he met the requalification requirements of Section 602 of the Act. No employer will be the chargeable employer of this individual because he was discharged for misconduct connected with his work and because the next subsequent employing unit after his discharge did not pay him an amount equal to or in excess of his weekly benefit amount in each of four weeks.

3) Example: The individual is discharged from Company A, files a claim for benefits and is determined to be ineligible under Section 602 of the Act. He then returns to work for Company B, a liable, contributing employer, and earns in excess of his weekly benefit amount in each of four weeks. He is then laid off by Company B. Thereafter he is employed by Company C before being laid off. Company B will be this individual's chargeable employer because it was the individual's single employer following his discharge for misconduct from Company A, is an employer under the Act, paid the individual an amount necessary to requalify for benefits and the requalification occurred after the beginning of the individual's benefit year.

4) Example: Assume the same facts as in subsection (d)(3) except that Company B discharged the individual for misconduct connected with his work. In this case, no employer will be the chargeable employer because Company B cannot be the chargeable employer of an individual if it discharged him for misconduct connected with his work and, though Company C was the individual's next subsequent employer following his discharge for misconduct from Company B and paid the individual the amount necessary to requalify for benefits and the requalification occurred after the beginning of the individual's benefit year, the disqualifying event occurred after the beginning of the individual's benefit year.

5) Example: Assume the same facts as in subsection (d)(3) except that Company B is not an employer under the Act. In this case, no employer will be charged as a result of any benefits paid to this individual. This is because the individual was discharged for misconduct connected with his work by Company A and earned an amount equal to or in excess of his weekly benefit amount in each of four weeks after the beginning of his benefit year from Company B, an organization which is not subject to the Act. However, because it is not an employer under the Act, it cannot be charged and, therefore, the charges will be pooled.

6) Example: An individual is employed by Company A for several months before being laid off for lack of work. The individual does not file a claim for benefits immediately but goes on vacation. When he returns from vacation, Company A offers the individual a suitable job which he refuses without good cause. However, during that same week, he is hired by Company B where he then works less than 30 days but earns in excess of his weekly benefit amount in each of four weeks. When he is laid off by Company B, the individual files a claim for benefits and is not subject to disqualification for

his refusal of work from Company A because he has had sufficient earning from Company B to purge any possible disqualification. Company A will not be charged for benefit charges which result from payments to this individual because the individual refused the Company's offer of suitable work without good cause. Company B will not be charged either because it paid this individual the amounts necessary to purge the possible disqualification before the beginning of the individual's benefit year. Therefore, in this case, no employer will be the chargeable employer, and the benefit charges will be pooled.

d) If no employer meets the requirements of this Subpart to be the chargeable employer for the second of two consecutive benefit years but there was a chargeable employer for the first benefit year, that employer will be the chargeable employer for that second benefit year.

Example: The individual is discharged for misconduct connected with his work by Company A, files a claim for benefits and is held ineligible pursuant to Section 602 of the Act. He then returns to work for Company B, a liable and contributing employer, and earns an amount equal to or in excess of his current weekly benefit amount in each of four calendar weeks, which is sufficient to requalify for benefits. He is then laid off by Company B and is now eligible for benefits. Under these circumstances, Company B will be charged for any benefit charges which accrue because it was the single employer which paid the individual the amount necessary to requalify for benefits and the requalification occurred after the beginning of the individual's benefit year. If this individual later files a second benefit year claim, Company B did not employ the individual for at least 30 days and paid the amount necessary for the individual to requalify prior to the beginning of the second benefit year. However, Company B will be the chargeable employer because there is no other employer that meets the requirements for chargeability and because it was the chargeable employer for the individual's first benefit year.

e) Whether the last employer for whom the individual provided at least 30 days of service is the chargeable employer is determined based on the circumstances as of the effective date of the initial claim for that benefit year and is unaffected by events which occur after that date.

Example: Company A is determined to be the chargeable employer of an individual who is laid off for lack of work and has filed an initial claim for unemployment insurance benefits. After a few weeks, this individual is recalled to work by Company A. A few months later, he quits his job with Company A and files an additional claim. Company A is still the chargeable employer since chargeability is determined based on the circumstances as of the effective date of the initial claim and is unaffected by the separation which occurred after that date.

f) Notice that a claim for benefits has been filed will be sent by the Agency to every employing unit for whom the individual provided services, subsequent to the services provided to the chargeable employer, prior to the beginning of the individual's benefit year.

(Source: Amended at 16 Ill. Reg. 12165, effective July 20, 1992)

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Section 2765.326 Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act

There must be either a separation from the employer or a reduction in the work offered which causes the individual to become unemployed, as defined in Section 239 of the Act, for the employer to be the chargeable employer under Section 1502.1 of the Act.

Example: For six months, an individual is employed on a full time basis for Company A and, at the same time, works part time for Company B, both liable, contributing employers. The individual is laid off by Company A but does not have sufficient base period earnings to immediately file a valid claim for unemployment benefits. He remains employed on a less than full time basis by Company B for several months until the base periods change. He now meets the requirements of Section 500E of the Act for establishing a valid claim based on his base period earnings from both Company A and Company B. If the individual continues to work, without a reduction in the work offered by Company B and earns less than his weekly benefit amount, even though he has not worked for Company A for several months, Company A will be held to be liable for any benefit charges which might accrue as a result of benefit payments to this individual. This is because Company B, while it meets the 30 day requirement, did not cause the individual to become unemployed because it neither caused his separation nor reduced the work offered to him.

(Source: Added at 13 Ill. Reg. 17410, effective October 30, 1989)

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Section 2765.328 What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act

a) The 30 day requirement, set forth in Section 2765.325, shall include any day on which any services are actually performed for the employer by the individual prior to the date of separation. The 30 day requirement, set forth in Section 2765.329, shall include any day on which any services are actually performed for the employer by the individual prior to the first of the week (Sunday) with respect to which the chargeable employer is being determined. If a shift covers two calendar days, only one day shall be included in determining whether the 30 day requirement has been met. The day included is the one on which the individual's shift begins. Paid sick days, vacation days, holidays or other similar paid, non-working days (e.g., "show-up" or stand-by pay days) shall not be counted toward meeting the 30 day requirement. Payments for wages in lieu of notice, pension or other retirement type payments or for severance pay also do not meet the requirements of this Section.

1) Example: The individual works a shift which begins at 10 pm on Monday and ends at 7 am on Tuesday. While this individual performs services for this employer on two calendar days, for the purpose of determining whether the 30 day requirement set forth in Section 1502.1 of the Act has been met, the individual's shift counts as only one day of service, Monday.

2) Example: The individual begins his shift at noon but becomes ill fifteen minutes later. Since the individual performed services for the employer for fifteen minutes, one day is counted toward meeting the 30 day requirement.

3) Example: The individual is scheduled to work on a certain day but fails to report for work because he is ill. Even if the employer provides paid sick leave to the individual for that day, it will not be counted toward the 30 day requirement.

4) Example: The individual receives paid sick leave from Company A, a nonprofit corporation, which elects to make payments in lieu of contributions, for 35 days during his base period. He has no other employment with Company A during his base period. He also performs services during his base period for Company B, a liable, contributing employer. After being laid off by Company B, he returns to Company A for 30 days before being again laid off. Company A will be liable for an amount equal to 100% of the benefits paid to this individual as payments in lieu of contributions. This is because Company A is the last employer of this individual; the 30 day requirement is met by the individual's employment; and the paid sick leave constitutes wages for insured work paid during the individual's base period.

5) Example: Upon the permanent layoff of an individual, the employer pays that individual for any unused, accrued vacation time that the individual is due and grants him severance pay in the amount of one day's pay for each year of continuous service. These payments are not included for the purpose of determining whether this employer has met the 30 day requirement.

6) Example: The individual works a four day work week, that is, instead of working eight hours per day, five days per week, he works ten hours per day, four days per week. Even if the individual's ten hour shift extends over two calendar days, each shift still counts as only one day, and this individual will have worked only four days in a normal work week.

7) Example: The individual had filed a new benefit year claim, effective January 10, 1993. He then

works on Thursday, January 21, 1993, Friday, January 22, 1993, Saturday, January 23, 1993, and Sunday, January 24, 1993, for Company A before being laid off for lack of work. He files a claim for and is paid benefits for the week ending January 30, 1993. In determining the chargeable employer for that week, Sunday, January 24, 1993, is not counted in determining if this individual performed services for Company A for 30 days. This is because Sunday, January 24, 1993, does not occur prior to the beginning of the week with respect to which a chargeable employer is being determined.

b) Overtime work or working additional shifts shall not be included in determining whether the 30 day requirement has been met unless there is at least 6 hours between the beginning of the overtime work or the additional shift and the end of the prior shift and the overtime work or additional shift does not occur on a day which will be otherwise included in meeting the 30 day requirement.

1) Example: The individual's normal shift ends at 3 am, and he is asked to work the next shift which begins at 4 am. Even if he works both shifts, since there is not at least 6 hours between the shifts, only one day will be counted toward meeting the 30 day requirement.

2) Example: The individual's shift ends at 3 am on Saturday, and he is asked to return to work for an additional overtime shift from 9 am until 2 pm. He must then return to work at 7 pm to work his regular shift. This overtime work does not count as an additional day toward meeting the 30 day requirement because his regular shift begins that same day and would already be included in meeting the 30 day requirement.

3) Example: The individual's normal shift begins at 3 pm and ends at 11 pm. However, he is required to work four hours of overtime every day so that he does not complete his shift until 3 am. This shift still counts as only one day toward the 30 day requirement.

(Source: Amended at 17 Ill. Reg. 614, effective January 4, 1993)

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Section 2765.329 Application of "30 Day" Requirement for Determining the Chargeable Employer Pursuant to Section 1502.1 of the Act for Benefit Years Beginning on or After January 1, 1993

a) Effective with benefit years beginning on or after January 1, 1993, except as provided in the other subsections and in Sections 2765.326, 2765.330, 2765.332, 2765.333 and 2765.334, the last employer, prior to the beginning of each week claimed by the individual, for whom the individual provided services during at least 30 days beginning with the first day of the individual's base period (defined in Section 237 of the Act) but prior to the beginning of the week claimed shall be liable for the benefit charges or payments in lieu of contributions, as the case may be, that result from any benefits paid to that individual for that week of unemployment. Unless stated to the contrary, each of the examples in this Section assumes a benefit year beginning date on or after January 1, 1993.

1) EXAMPLE: Prior to the beginning of the week beginning on January 24, 1993, the individual provides services only to Company A, a liable, contributing employer, for over ten years. Company A is this individual's chargeable employer with respect to this individual for the week ending January 30, 1993 because Company A is the individual's last employer of at least 30 days prior to the beginning of the week beginning on January 24, 1993. If, after claiming benefits for a few weeks, this individual provides services to Company B, a liable, contributing employer, for six months, is laid off by Company B and files an additional claim, Company B will be the chargeable employer of this individual with respect to any benefit charges that might accrue with respect to weeks which are paid to the individual after the effective date of the additional claim.

2) EXAMPLE: Immediately prior to filing his claim for unemployment benefits for the week beginning on January 24, 1993, the individual provides services to Company A, a liable, contributing employer, for 20 days. Prior to this period, he provides services to Company B, a liable, contributing employer, for 30 days. Prior to working for Company B and throughout his base period, the individual has provided at least 10 days of service to Company A. Company A is the chargeable employer and is liable for any benefit charges that might accrue as a result of any benefits paid to this individual for the week ending January 30, 1993. Company A is the individual's last employer prior to the beginning of the week beginning on January 24, 1993 because he provided services to Company A during at least 30 days during the period from the beginning of his base period to the beginning of the week beginning on January 24, 1993. Pursuant to Section 1502.1 of the Act, it is not necessary for the 30 days of services by the individual to be consecutive.

3) EXAMPLE: The individual is employed on an as-needed basis (some weeks the individual might work four days, other weeks he might not work at all) for Company A, a liable, contributing employer. While so employed by Company A, the individual is also employed on a full time basis for Company B, a liable, contributing employer. The individual is laid off by Company B and is offered two days of work by Company A. After working for these two days, no other work is currently available with Company A, and the individual files a claim for benefits for the week ending January 23, 1993. If the individual has provided services to Company A for at least 30 days since the beginning of his base period, Company A will be liable for any benefit charges which might accrue as a result of any benefits that might be paid to this individual for this week. This is because, despite the individual's full time employment with Company B, the individual's last employer for whom he provided services of at least 30 days during the applicable period was Company A, and it was his separation from Company A that caused the individual to become "unemployed".

4) EXAMPLE: Assume the same facts as in subsection (a)(3), except that, instead of being an as-needed

employee, the individual continues to provide less than full time services to Company A and earns less than his weekly benefit amount. In that case, Section 2765.326 shall apply, and Company B will be the chargeable employer because it caused this individual to become unemployed as defined in Section 239 of the Act.

5) EXAMPLE: The individual is a substitute teacher. Whenever he or she is available to teach, he calls in for assignments with his school district, a local governmental entity that has elected to make payments in lieu of contributions. During the first semester of the school year, he teaches only 32 days. He, however, did not work for the school district during his base period. If he now files a claim for benefits, his school district will be liable for 50% of any payments in lieu of contributions that would result if he would be paid benefits. This is because, despite his services being performed over a five month period, the school district is the last employer prior to the first day of the week with respect to which he is claiming benefits and he has performed the required 30 days of services during the applicable period. The employer is only liable for 50% of the amount of the benefits paid because the individual performed no services for this employer during his base period (see Section 1405(B) of the Act).

6) EXAMPLE: The individual performed services for 25 days during his base period for City A, a local governmental entity that has elected to make payments in lieu of contributions. He then performs services for Company B, a liable, contributing employer, for approximately 10months. After being laid off by Company B, he is again employed by City A that then lays him off after he has performed services five days. City A will be liable for payments in lieu of contributions equal to 100% of the benefits paid to this individual. This is because City A is the individual's last employer prior to the first day of the week with respect to which the individual claimed benefits, and this individual performed services for at least 30 days beginning with the start of his base period and prior to the beginning of the week with respect to the individual claimed benefits. City A is liable for 100% of the benefits paid because, in addition to being the chargeable employer as provided in this subsection, the individual also provided services for this employer during his base period. If this employer had met the requirements to be the chargeable employer but this individual had not provided services to this employer during his base period, then this employer would have been liable for only 50% of the payments in lieu of contributions made to this individual as in subsection (a)(5). Should this individual return to work for Company B and again become eligible for benefits, Company B would be the chargeable employer with respect to any weeks that occur after this subsequent separation.

7) EXAMPLE: The individual is employed by several different employers from the beginning of his base period until the beginning of the first week he claims benefits. However, he does not perform services for at least 30 days for any single employer during this period. Therefore, there is no chargeable employer for that week or for any subsequent weeks, and no employer will be liable for either the benefit charges or payments in lieu of contributions as a result of payments made to this individual until the claimant has performed services for an employer for at least 30 days.

8) EXAMPLE: An individual is employed during his entire base period for Company A, a liable, contributing employer. After being laid off by Company A, he performs services for at least 30 days for the State of Illinois, which makes payments in lieu of contributions under Section 1403 of the Act. If this individual files a claim for benefits, the State will be liable for an amount equal to 50% of the benefits paid to this individual since the State is the chargeable employer but not a base period employer.

9) EXAMPLE: An individual files a claim with a benefit year that begins on December 1, 1992. Company A is determined to be the chargeable employer with respect to this claim. The individual returns to work on January 5, 1993, and performs services for 30 days for Company B before being laid off and filing an additional claim. Despite having worked for Company B for 30 days, Company A remains the chargeable employer in this case because the benefit year began prior to January 1, 1993.

10) EXAMPLE: An individual is laid off of work by Company A and files a new claim, effective January 24, 1993. Company A is found to be the chargeable employer. Thereafter, the individual obtains a part time job with Company B and works four days each week. However, she never earns over her weekly benefit amount in any week. Even after working for Company B for more than 30 days, Company A remains the chargeable employer. This is because Company B has not separated this individual nor caused her to become unemployed as a result of a reduction of the work offered, as required by Section 1502.1.

11) EXAMPLE: An individual is employed by Easy Living Realty as a secretary for 45 days during his base period. He leaves Easy Living Realty and obtains work as a secretary for Victorian Realty for 10 days. He is then promoted to real estate salesman, paid solely by commission. After working as salesman for several months, he is laid off from this job. He then files a claim for benefits. Easy Living Realty is the chargeable employer in this case. The time that this individual spent as a real estate salesman for Victorian Realty is not included in determining whether he was employed for 30 days for that employer because those services do not constitute employment under the Act.

12) EXAMPLE: An individual is employed by Company A for 29 days before being laid off from his job. He then files an unemployment insurance claim with a benefit year beginning date of January 24, 1993. On February 15, 1993, this individual returns to work for Company A and works only one day. For any weeks beginning after February 15, Company A meets the requirements to be the chargeable employer.

b) If, with respect to a week, the last organization or person for whom the individual provided at least 30 days of service is not an employer, as defined by Section 205 of the Act, then no employer shall be the chargeable employer for that week, and any benefit charges or payments in lieu of contributions which accrue as a result of benefits paid to the individual for that week shall not become the benefit charges or the amounts due of any employer. Whether the last organization or person for whom the individual provided at least 30 days of service is an employer, as defined by Section 205 of the Act, is determined as of the last day of the week for which the claim is made and is unaffected by a later determination of liability based on events which occur after that week. However, if it is later determined that the organization or person has become an employer under the Act, the organization or person can be the chargeable employer for any weeks occurring after the date on which the organization or person became liable.

1) EXAMPLE: An individual is employed during his entire base period for Company A, a liable, contributing employer. He then leaves Illinois and performs services in California for at least 30 days for an organization that is not liable under the Act. If this individual is laid off from his California job and files a claim against Illinois based on his Illinois base period wages, no employer shall be liable for any benefit charges for any benefit payments made to this individual with respect to weeks when the California organization was the last entity to employ the individual. This is because the California organization is not an employer under the Act and, therefore, cannot be the chargeable

employer under this Section. However, if this individual would return to work for Company A and then again become eligible for benefits, Company A would be the chargeable employer with respect to any weeks which occur after this later separation from Company A.

2) EXAMPLE: An individual is employed during his entire base period for Company A, a liable, contributing employer. After being laid off by Company A, he performs services for at least 30 days for the U.S. Postal Service, which is not an employer under the Act and for which reimbursement for any benefits paid is determined under federal regulations. He is then laid off by the U.S. Postal Service. If this individual files a claim for benefits, no employer shall be liable for any benefit charges for any benefit payments made to this individual. This is because the U.S. Postal Service is not an employer under the Act and, therefore, cannot be the chargeable employer under this Section. However, if this individual would return to work for Company A and then again become eligible for benefits, Company A would be the chargeable employer with respect to any weeks that occur after this later separation from Company A.

3) EXAMPLE: An individual files a claim for benefits, effective March 28, 1993, after having last been employed by Company A that began business as of January 1, 1993. As of March 28, 1993, Company A is not an employer under the Act because it has not yet had one or more employees in each of twenty or more weeks nor has it paid at least $1,500 in wages in a calendar quarter. However, as of September 4, 1993, it has one or more employees in each of 20 or more weeks, and, therefore, its liability is made retroactive to January 1, 1993. In this case, Company A will be the chargeable employer only with respect to any weeks that begin after September 3, 1993, because, while the effective date of its liability is January 1, 1993, it did not meet the criteria for liability under the Act until September 4, 1993.

4) EXAMPLE: An individual files a claim for benefits for the week ending January 23, 1993, after having last been employed by Company A, an employing unit that claims it is not liable under the Act because it has no employees. On September 10, 1993, there is a determination and assessment, covering all of 1992 and the first two quarters of 1993, which becomes final and which holds that Company A is liable for unpaid contributions on the wages of workers whom Company A had not considered employees. This determination and assessment is based on events that occurred prior to the week beginning January 17, 1993. Therefore, Company A can be held to be the chargeable employer of this individual for the week ending January 23, 1993.

c) Notwithstanding any other provision of this Subpart, with respect to a week of benefits claimed, no employer shall be the chargeable employer of an individual who was either discharged for misconduct connected with the work or voluntarily left the employer without good cause or refused to accept an offer of or to apply for suitable work from that employer without good cause. Unless a subsequent employer paid the individual an amount equal to his or her weekly benefit amount in each of four weeks after the beginning of the week in question, any payments that might result in benefit charges for that week will be pooled and not charged to any employer. However, if the circumstances of the voluntary quit are those described in Section 601(B)(1), or (2), (6) or (7) of the Act, then, any payments that might result in benefit charges will become pooled costs and not be charged to any employer.

1) EXAMPLE: The individual quits Company A where he performed services for at least 30 days to accept employment with Company B where he works for two weeks and earns in excess of his weekly benefit amount. He is then laid off and files a claim for benefits for the week ending January 23, 1993. Company A is the individual's last employer prior to the beginning of the week ending on

January 23, 1993, and the individual provided services to Company A during at least 30 days during the period from the beginning of the individual's base period to the beginning of the week beginning on January 17, 1993. Under Section 601(B)(2) of the Act, this individual is not ineligible for benefits. However, no employer will be charged for the benefits paid to the individual for the week ending January 23, 1993. This is because the individual quit his job with Company A without good cause but under the circumstances described in Section 601(B)(2) of the Act.

2) EXAMPLE: The individual is held to be ineligible for benefits by the claims adjudicator, Referee, Board of Review or court as a result of his discharge for misconduct by Company A, a liable, contributing employer. Thereafter, he returns to work and performs services for Company B, a liable, contributing employer, for three days per week for three weeks and is then laid off. However, he does earn an amount in excess of his weekly benefit amount in each of these weeks. He then performs services for Company C for one week and earns in excess of his weekly benefit amount before being laid off for lack of work and claims benefits for the week ending March 6, 1993. The individual is eligible for benefits because he met the requalification requirements of Section 602 of the Act. No employer will be the chargeable employer of this individual for the week ending March 6, 1993 because he was discharged for misconduct connected with his work and because, after his discharge, there was no single employer that paid him an amount equal to or in excess of his weekly benefit amount in each of four weeks. However, if this individual later returns to work for Company B and performs services for an additional 21 days before being laid off, Company B could be the chargeable employer with respect to any weeks that occur subsequent to this separation.

3) EXAMPLE: The individual is discharged from Company A, files a claim for benefits for the week ending January 23, 1993 and is determined to be ineligible under Section 602 of the Act. He then returns to work for Company A and earns in excess of his weekly benefit amount in each of four weeks. He is then laid off by Company A. Thereafter, he performs services for Company B for less than 30 days before being laid off. Company A will be this individual's chargeable employer with respect to any weeks subsequent to this second separation from it because it was the individual's single employer following his discharge for misconduct, is an employer under the Act and paid the individual an amount necessary to requalify for benefits. If this individual had performed services for Company B for 30 days, then it would be this individual's chargeable employer.

4) EXAMPLE: Assume the same facts as in subsection (c)(3) except that, after performing services 30 days for Company B, the individual was discharged for misconduct connected with his work. In this case, no employer will be the chargeable employer with respect to this subsequent separation because Company B cannot be the chargeable employer of an individual if it discharged him for misconduct connected with his work.

5) EXAMPLE: Assume the same facts as in subsection (c)(3) except that Company B, that employed the individual for 30 days, is not an employer under the Act. In this case, no employer will be charged as a result of any benefits paid to this individual after his second separation (unless a later chargeable employer is found for subsequent weeks). This is because, even though the individual requalified for benefits by earning an amount equal to or in excess of his weekly benefit amount in each of four weeks from Company A, he was subsequently employed for 30 days by Company B, an organization that is not subject to the Act.

6) EXAMPLE: An individual is employed by Company A for several months and performs services for Company A for at least 30 days before being laid off for lack of work. The individual does not file a

claim for benefits immediately but goes on vacation. When he returns from vacation, Company A offers the individual a suitable job that he refuses without good cause. However, during that same week, he is hired by Company B where he then performs services for less than 30 days but earns in excess of his weekly benefit amount in each of four weeks. When he is laid off by Company B, the individual files a claim for benefits for the week ending January 23, 1993. He is not subject to disqualification for his refusal of work from Company A because he has had sufficient earnings from Company B to purge any possible disqualification. Company A will not be charged for benefit charges that result from payments to this individual because the individual refused the Company's offer of suitable work without good cause. Company B is not the employer that paid the claimant earnings that allowed him to requalify because the individual was never disqualified. Company B did not employ this individual for at least 30 days. Therefore, in this case, no employer will be the chargeable employer for the week ending January 23, 1993 and thereafter until such time as there is an employer that meets the requirements of the Act to be chargeable.

d) If no employer meets the requirements of this Subpart to be the chargeable employer for the second of two consecutive benefit years, then no employer will be the chargeable employer for that second benefit year (effective with benefit years beginning on or after September 22, 1992).

EXAMPLE: The individual files a claim after being employed at several temporary jobs. Company A employed this individual for 30 days during the first quarter of his base period. No subsequent employer employed this individual for 30 days. Company A is the chargeable employer. This individual then files a second benefit year claim. His employment with Company A occurred prior to the base period of the second benefit year claim, and no subsequent employer employed him for at least 30 days. Therefore, no employer will be chargeable for this claim. However, if the second benefit year began after January 1, 1993, while no employer might initially be liable for any benefit charges, should this individual become employed and then later unemployed, a subsequent employer could be liable for any charges that might accrue after that period of unemployment.

e) Notice that a claim for benefits has been filed will be sent by the Agency to every employing unit for whom the individual provided services, subsequent to the services provided to the chargeable employer.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.330 Chargeability Where The Individual Is Discharged As A Result Of His Incarceration
Effective with respect to the payment of benefits for weeks which begin after September 22, 1992, an employer shall not be the chargeable employer, if that employer would otherwise be the chargeable employer but the individual is separated from that employer as a result of the individual's detention, incarceration or imprisonment under State, local or federal law. The benefit charges or payments in lieu of contributions with respect to this individual for this period shall be pooled and not chargeable to any employer.

a) Example: An individual is arrested on his way to work. He calls the employer to inform it that he cannot make bail so he cannot report to work. The employer replaces the individual because it needs to continue its production uninterrupted. The charges are later dismissed against the individual, and he files a new benefit year claim effective November 1, 1992. Because he was discharged for a reason other than misconduct connected with his work, the individual is eligible for benefits. It is determined that the employer would otherwise be the chargeable employer. Any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual shall be pooled and not chargeable to any employer.

b) Example: The individual informs his employer that he has been sentenced to jail for 30 days for a non-work related offense. He requests a leave of absence for this period, but it is denied because he does not meet the employer's criteria for such a leave. While the claimant is in jail, the employer, Company A, replaces the individual. After he is released from jail, the individual returns to the employer, but no work is available. He then files a new benefit year claim effective January 10, 1993. The individual is eligible for benefits, and is paid for the period from January 17, 1993 through January 30, 1993, when he goes to work for another employer, Company B. Any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for the period from January 17, 1993 through January 30, 1993 shall be pooled and not chargeable to any employer. If this individual is subsequently separated from Company B and if Company B is determined to be the chargeable employer for any subsequent weeks, any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for the subsequent weeks will be charged to Company B. However, if Company A would otherwise be the chargeable employer with respect to this subsequent period, any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for this subsequent period shall be pooled.

c) Examples: An individual is arrested on his way to work. He calls the employer to inform it that he cannot make bail so he cannot report to work. The employer replaces the individual because it needs to continue its production uninterrupted. The charges are later dismissed against the individual, and he files a new benefit year claim effective March 1, 1992. Because he was discharged for a reason other than misconduct connected with his work, the individual is eligible for benefits. It is determined that the employer is the chargeable employer. However, any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for weeks beginning on or after September 22, 1992 shall be pooled and not chargeable to any employer. This employer remains the chargeable employer for weeks beginning prior to September 22, 1992.

(Source: Added at 17 Ill. Reg. 614, effective January 4, 1993)

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Section 2765.332 Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 of The Act

Pursuant to Section 602(B) of the Act, whenever it is determined that an individual has been discharged for the commission of a felony or theft connected with his work and that the employer has met certain conditions set forth in that subsection of the Act, all wages earned by the individual prior to the date of discharge shall be cancelled, thus making the individual ineligible for benefits on the basis on such wages. An employer cannot be the chargeable employer pursuant to this Subpart on the basis of wages earned prior to the date of the discharge. However, if that employer were to reemploy the individual after the date of discharge, such employer could be the individual's chargeable employer pursuant to this subpart if the requirements of the Subpart are met based only on the period of employment following the date of the discharge for the felony or theft.

(Source: Added at 13 Ill. Reg. 17410, effective October 30, 1989)

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Section 2765.333 Effect of Ineligibility Under Section 612 on Chargeability Under Section 1502.1 of the Act

Whenever the individual's last employer is an educational institution or is an educational service agency, then the educational institution or educational service agency shall not be liable for benefit charges on the basis of benefits paid to that individual during the period between two consecutive academic years or terms if the individual has a reasonable assurance that he or she will perform service in any capacity for any educational institution or educational service agency in the second of the academic years or terms. In these instances, it is not necessary that the individual be ineligible under Section 612 of the Act if Section 612 would have applied if the individual had had wages from an educational institution or educational service agency during his or her base period. This Section shall also apply to payments in lieu of contributions.

a) EXAMPLE: An individual is employed as a teacher for a public school. However, during his base period, he earned sufficient wages from a non-educational employer to qualify for benefits. If this individual is held to be ineligible during a period between academic terms on the basis of his wages from the public school, he could still qualify for benefits based on his wages from the non-educational employer. Even if the public school would otherwise be the individual's last employer pursuant to this Subpart, the public school will not be liable for any benefit charges that might accrue as a result of payments to that individual during his period of ineligibility under Section 612 of the Act.

b) EXAMPLE: The individual is employed by a private employer during his entire base period. Thereafter, he obtains work as a teacher for a public school. When he is off of work during the summer, the individual applies for unemployment insurance benefits. If this individual has a reasonable assurance in the second academic year or term, then the public school is the last employer during this period, but it will not be liable for any benefit charges or payments in lieu of contributions that might accrue as the result of payments made to this individual. In this case, any benefit charges will be pooled.

c) EXAMPLE: The individual is employed by a private employer during his entire base period. Thereafter he obtains work as a teacher for a public school. He is discharged by the school for non-disqualifying reasons and files a new claim with a benefit year beginning January 10, 1993. He is then paid benefits for the period from January 10, 1993 through January 30, 1993, at that time he is rehired by this same public school. If the school meets the other requirements for chargeability, it will be liable for any benefit charges or payments in lieu of contributions that accrue for this period. However, if this same individual is then off of work during the summer and has a reasonable assurance of similar employment in the second academic year or term, while the public school would otherwise be the chargeable employer during this period, it will not be liable for any benefit charges or payments in lieu of contributions that might accrue as the result of payments made to this individual during the period. In this case, any benefit charges will be pooled. However, this pooling occurs only for the period of ineligibility or potential ineligibility under Section 612 of the Act.

d) EXAMPLE: Assume the same facts as in subsection (c), except that the individual is later laid off for lack of work by the school district for the week ending October 16, 1993. The school district will be the chargeable employer for this week.

e) EXAMPLE: The individual is employed by Company A for 2 years until his layoff in May 1993. He is then employed for 20 days by a public school district as a teacher. He is laid off for the summer vacation but has a reasonable assurance of reemployment by the school district when the new academic year or term begins. The individual is not ineligible for benefits under Section 612 of the Act because he was

not employed by the school district during his base period. Because Company A is the last employer for whom this individual performed services for at least 30 days, it is the chargeable employer for any weeks paid to this individual during the summer period. Section 1502.1A(3)(a)(ii)(5) of the Act does not apply to this situation because Company A is not the employer that laid the individual off between academic years or terms.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)

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Section 2765.334 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act

Pursuant to Section 614 of the Act, an individual shall be ineligible, on the basis of wages earned during his base period unless he was either lawfully admitted to this country for permanent residence or otherwise is permanently residing in this country under color of law. Because this ineligibility could effect some, but not all, of the individual's base period wages, it is possible that the individual could be held ineligible under Section 614 of the Act but still qualify for benefits based on base period wages paid after he was either lawfully admitted to this country for permanent residence or otherwise is permanently residing in this county under color of law. In determining whether an employer is the individual's chargeable employer under this Subpart, no day on which the individual was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law will be counted in determining whether the individual was employed by the employer for at least 30 days.

a) Example: The individual applied for and was granted permanent resident status on July 1, 1988. He worked for Company A, a liable, contributing employer, continuously from January 1, 1988, to the date of his separation on May 1, 1989. His base period began on January 1, 1988. Under Section 614 of the Act, the individual is not eligible for benefits based on the wages paid prior to July 1, 1988, because he was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law during this time. However, he might still be eligible for benefits based on his earnings during the third and fourth quarters of 1988. Company A will be the individual's chargeable employer under this Subpart because, even not counting the days of employment from January 1, 1988 to June 30, 1988, the individual was employed by Company A for 30 days from the beginning of his base period to the beginning of his claim for unemployment insurance benefits.

b) Example: The individual applied for and was granted permanent resident status on July 1, 1992. He worked full time for Company A, a liable, contributing employer, continuously from January 1, 1988, to the date of his separation on April 30, 1993. He filed his new benefit year claim, beginning May 2, 1993. His base period began on January 1, 1992. Under Section 614 of the Act, the individual is not eligible for benefits based on the wages paid prior to July 1, 1992, because he was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law during this time. However, he is eligible for benefits based on his earnings during the third and fourth quarters of 1992, and he is paid benefits from May 2, 1993 through May 29, 1993. Company A will be the individual's chargeable employer under this Subpart because, even not counting the days of employment from January 1, 1988 to June 30, 1992, this individual performed services for Company A for 30 days from the beginning of his base period to the beginning of the week with respect to which he files a claim for unemployment insurance benefits.

c) Example: The individual applied for and was granted permanent resident status on July 1, 1992. He worked full time for Company A, a liable, contributing employer, continuously from January 1, 1988, to the date of his separation on June 30, 1992. He then worked for Company B for the period from July 1, 1992 to the date of his separation on March 15, 1993. He then returned to work for Company A and performed services for this employer for five weeks (25 days). He filed his new benefit year claim, beginning May 2, 1993. His base period began on January 1, 1992. Under Section 614 of the Act, the individual is not eligible for benefits based on the wages paid prior to July 1, 1992, because he was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law during this time. However, he is eligible for benefits based on his earnings during the third and fourth quarters of 1992, and he is paid benefits from May 2, 1993 through

May 29, 1993. Company B will be the individual's chargeable employer under this Subpart because this individual performed services for Company B for 30 days from the beginning of his base period to the beginning of the week with respect to which he files a claim for unemployment insurance benefits. Company A cannot be the chargeable employer with respect to these weeks because the individual had not performed services for it for 30 days since the days on which he performed services prior to July 1, 1992 cannot be counted in determining whether the individual performed services for 30 days. However, if this individual would return to work for Company A and perform services for an additional 5 days, Company A would be the chargeable employer for any weeks which begin after the individual performed services for these additional days.

(Source: Amended at 17 Ill. Reg. 614, effective January 4, 1993)

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Section 2765.335 Procedural Requirements And Right Of Appeal

a) Whenever, pursuant to Section 701 of the Act, the claims adjudicator decides that an employer is the "last employer" of an individual (employer subject to benefit charges or payments in lieu of contributions) as provided in this Subpart, or, pursuant to Section 706 of the Act, decides that charges must be assessed against the employer pursuant to Section 2765.336 for benefits for which a claimant was ultimately determined to be ineligible, the claims adjudicator shall promptly notify the employer of this decision. A decision that an employer is the "last employer" of an individual shall apply to the week beginning with the effective date of the claim and each week thereafter until the claims adjudicator finds that the individual is no longer unemployed.

EXAMPLE: An individual files a claim with a benefit year beginning January 10, 1993, and Company A is notified that it is the "last employer". The employer fails to file a timely request for reconsideration of this decision. The individual is then paid benefits for the period from January 10, 1993 through January 30, 1993. Company A is the chargeable employer for this period. The individual returns to work for Company A and earns over his weekly benefit amount for the week ending February 6, 1993. He is then laid off of work and files an additional claim beginning February 7, 1993. Company A is notified that it is the "last employer" with respect to this claim. Company A can file a timely request for reconsideration of this decision. However, this request will affect only weeks after February 6, 1993.

b) If the employer disagrees with the decision of the claims adjudicator that it is the "last employer", or that charges must be assessed against the employer pursuant to Section 2765.336, the employer must file a written request for reconsideration of this decision within 10 days after the date of mailing of the decision.

c) A request for reconsideration of the decision of the claims adjudicator must comply with the requirements of 56 Ill. Adm. Code 2720.130. In the case of a decision that the employer is the last employer of the individual, the request shall specify the full name and social security number of the individual and the reasons why the employer believes that it is not the chargeable employer under this Subpart. The employer may not allege the misapplication of Section 2765.336 with respect to any claim that was part of the basis for charges assessed against an employer pursuant to that Section, if the claim was the basis of a previous decision that assessed charges against the employer pursuant to Section 2765.336 and that decision has become legally final. An employer's request for reconsideration of a decision issued pursuant to Section 706 may not challenge a legally final determination or decision that the employer failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 1: Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. Employer X files a timely request for reconsideration of that decision. It will be Employer X's burden to show that Section 2765.336 does not apply to the charges for Claimant A's benefits. However, the request may not challenge a legally final determination or decision that Employer X failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 2: Employer X receives a Notice of Claim indicating that Claimant A has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing A's claim, and A receives benefits during October 2021. That same month, X sends the Department information, indicating that it had discharged A for misconduct. In November 2021, the Department issues a reconsidered determination, denying A's claim. A does not appeal, and

the reconsidered determination becomes legally final. According to Department records, during 2021, there were 4 prior claims with respect to which: X was the last chargeable employer; the Department had properly notified X; the Department initially paid benefits due to X's failure to file a timely and sufficient protest pursuant to Section 2720.130; and the Department ultimately issued a reconsidered determination denying benefits, with the reconsidered determination becoming legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. The decision notes the four prior claims that caused X to remain chargeable for the benefits that were paid to A. To be relieved of the charges for A's benefits, X must file a timely request for reconsideration of the decision. It will be Employer X's burden to show that Section 2765.336 does not apply to the charges for Claimant A's benefits. However, the request may not challenge a legally final determination or decision that Employer X failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 3: Employer X receives a Notice of Claim, indicating that Claimant A has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing A's claim, and A receives benefits during September 2021. That same month, X sends the Department information indicating that it had discharged A for misconduct. In October 2021, the Department issues a reconsidered determination, denying A's claim. A does not appeal, and the reconsidered determination becomes legally final. According to Department records, during 2021, there were 4 prior claims with respect to which: X was the last chargeable employer; the Department had properly notified X; the Department initially paid benefits due to X's failure to file a timely and sufficient protest pursuant to Section 2720.130; and the Department ultimately issued a reconsidered determination denying benefits, with the reconsidered determination becoming legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. The decision notes the four prior claims that caused X to remain chargeable for the benefits that were paid to A. X does not file a request for reconsideration, and the decision becomes legally final. In November 2021, Employer X receives a Notice of Claim indicating that Claimant B has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing B's claim, and B receives benefits during November 2021. That same month, X sends the Department information, indicating that it had discharged B for misconduct. In December 2021, the Department issues a reconsidered determination, denying B's claim. B does not appeal, and the reconsidered determination becomes legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant B even though Claimant B was finally determined to be ineligible for those benefits. The decision notes the five prior claims that caused X to remain chargeable for the benefits that were paid to B. X may not allege the misapplication of Section 2765.336 with respect to any of the five prior claims because each was part of the basis for charges assessed against X pursuant to Section 2765.336 for benefits for which a claimant was ultimately determined to be ineligible, and the decision assessing the charges became legally final.

d) After reviewing the allegations of the employer and any other relevant facts in the record, the claims adjudicator shall issue a reconsidered decision. If the employer disagrees with the reconsidered decision of the claims adjudicator, the employer must file a written appeal of the reconsidered decision within 30 days after the date of mailing of the reconsidered decision or the reconsidered decision will become final.

e) An Application made pursuant to Section 1508 of the Act and 56 Ill. Adm. Code 2725.100 regarding

revision of the Statement of Benefit Charges, that includes benefit charges the employer believes are incorrect because it is not the chargeable employer shall be sufficient only if the Application contains a reference to, and a copy of, the decision that reverses the claims adjudicator and holds that the employer is not the chargeable employer and that the employer is not subject to charges for the claim pursuant to Section 2765.336. These same requirements must be met by an employer that is questioning payments in lieu of contributions on its Statement of Amount Due for Benefits Paid.

f) Unless the employer has filed a timely request for reconsideration of the decision that the claims adjudicator has found it to be the chargeable employer, or of the decision that charges must be assessed against the employer pursuant to Section 2765.336, as the case may be, the employer shall not be entitled to a revision of its Statement of Benefit Charges under 56 Ill. Adm. Code 2725.100, nor shall it be entitled to a revision of the amounts shown on its Statement of Amount Due for Benefits Paid for payments in lieu of contributions.

EXAMPLE: Employer A is notified that it is the chargeable employer with respect to a claim for unemployment insurance benefits within a benefit year beginning on or after January 1, 1993. The employer does not request reconsideration of this decision. Several weeks later, this employer is served with its Statement of Benefit Charges for the weeks paid to this individual. At this time, the employer requests a revision of the Statement on the grounds that this individual did not perform services for it for 30 days prior to the beginning of the weeks for which it is being charged. The employer shall not be entitled to a revision of these charges because it failed to file a timely request for reconsideration of the initial decision that it was the chargeable employer.

g) Appeals of decisions under this Section shall be filed with the local office where the original decision was made.

h) The conduct of the hearing shall be the same as that provided under Section 2200 of the Act and 56 Ill. Adm. Code 2725.

(Source: Amended at 44 Ill. Reg. 8234, effective April 28, 2020)

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Section 2765.336 Non-Cancellation of Benefit Charges Due to Employer's Pattern of Failing to Respond Timely and Adequately

a) For purposes of Section 706 of the Act, if benefits are paid pursuant to a finding or determination, or a reconsidered finding or determination, that is finally reversed or modified in subsequent proceedings, the benefit charges, for purposes set forth in Section 1502.1 of the Act, shall be treated in the same manner as if the reversal or modification had not occurred if:

1) The employer was the last employer with respect to the claim at issue;

2) The employer was properly notified with respect to the claim at issue;

3) The finding or determination, or reconsidered finding or determination, was attributable to the employer's failure to file a sufficient protest within the time required by 56 Ill. Adm. Code 2720.130(a)(1) or (d)(3), whichever is applicable; and

4) During the same calendar year, there were at least 4 prior benefit claims with respect to which:

A) subsections (a)(1), (2) and (3) applied with respect to the employer; and

B) benefits were paid, and the finding, determination or reconsidered finding or determination under which benefits were paid was finally reversed or modified in subsequent proceedings.

EXAMPLE: The employer fails to file a timely and sufficient protest when notified initially that the claimant has filed a claim for benefits and does not preserve party status. The claimant receives benefits. When the employer receives its quarterly Statement of Benefit Charges, it raises a question regarding the claimant's eligibility for benefits. Upon investigation, the claims adjudicator determines the claimant to be ineligible for benefits and establishes an overpayment for the entire amount of the benefits paid to the claimant. The overpayment becomes legally final. The employer's charges for this claimant's benefits will not be cancelled if, within the same calendar year, there were at least four other cases to which subsections (a)(4)(A) and (B) apply.

b) For purposes of subsection (a)(3), with respect to a claim in which benefits are initially paid pursuant to a finding or determination, or a reconsidered finding or determination, the timing of the protest shall be determined without regard to 56 Ill. Adm. Code 2720.130(e) if the finding or determination, or the reconsidered finding or determination, was attributable to the employer's failure to initially submit a sufficient protest.

c) Only claims filed on or after April 1, 2020 shall be considered for purposes of subsection (a).

d) The applicability of this Section shall be based on the date of the reconsidered finding or determination, or decision of a Referee, the Board of Review or a court that finally reverses the finding or determination, or the reconsidered finding or determination, pursuant to which benefits were paid with respect to the claim.

EXAMPLE: The employer fails to file a timely and sufficient protest when notified initially that the claimant has filed a claim for benefits and does not preserve party status. A separation issue is detected on the claim application. The claims adjudicator mails out an "Allow" determination. The claimant

collects benefits for several weeks. The employer then submits a request for reconsideration and appeal. On December 3, 2020, the claims adjudicator mails out a "Deny" reconsidered determination. The claimant does not submit a request for reconsideration and appeal. The reconsidered determination becomes final on January 4, 2021. The application of this Section will be based on the date of the reconsidered determination, December 3, 2020, and not the date when the reconsidered determination became final on January 4, 2021.

e) This Section will apply regardless of whether the employer has contracted with one or more attorneys or other representatives for representation in connection with benefit claims.

(Source: Added at 44 Ill. Reg. 8234, effective April 28, 2020)

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Section 2765.337 Benefits Paid During the Period Created by Section 1502.4 of the Act Attributable to COVID-19

For purposes of Section 1502.4 of the Act, due to the unprecedented rate of displacement and employer closings, both temporary and permanent, the vast majority of unemployment giving rise to the payment of benefits from March 15, 2020 through January 2, 2021 is presumed to be directly or indirectly attributable to COVID-19. Contributing employers shall identify, in the Application for Revision of a Statement of Benefit Charges, the benefit charges resulting from reasons other than COVID-19, as well as any basis not related to COVID-19 for seeking the cancellation of benefit charges for weeks of unemployment that do not fall within that period. Employers making payments in lieu of contributions shall identify, in the Application for Revision of a Statement of Amount Due for Benefits Paid, the amounts due resulting from reasons other than COVID-19, as well as any basis not related to COVID-19 for seeking the cancellation of any amounts due for benefits paid for weeks of unemployment that do not fall within that period.

(Source: Added at 44 Ill. Reg. 19678, effective December 11, 2020)

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PART 2770 DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS
SUBPART A: INDUSTRIAL CLASSIFICATIONS

Section 2770.100 Pre 2003 Industrial Classification (Repealed)

(Source: Repealed at 32 Ill. Reg. 155, effective January 1, 2008)

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Section 2770.101 Post 2002 Industrial Classification

a) Each employer subject to the Act shall be assigned an industrial classification number based on its primary activity.

1) Each employer shall be assigned to a major Economic Sector based on the first two digits of the industrial classification number:

Digits	Economic Sector
11	Agriculture, Forestry, Fishing and Hunting
21	Mining
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale Trade
44-45	Retail Trade
48-49	Transportation and Warehousing
51	Information
52	Finance and Insurance
53	Real Estate and Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
56	Administrative and Support and Waste Management
61	Educational Services
62	Health Care and Social Assistance
71	Arts, Entertainment and Recreation
72	Accommodation and Food Services
81	Other Services (except Public Administration)
92	Public Administration
99	Unclassified

2) The methodology for the classifications in subsection (a)(1) shall be based upon the North American Industry Classification System Manual, U.S. Office of Management and Budget (2002), which shall be incorporated and adopted by reference.

3) The general classifications to be used shall be those set forth in the above cited Manual.

b) Each employer not eligible for an experience rate and in an Economic Sector where the mean average contribution rate for experience rated employers is greater than the rates set forth in Section 2770.106(a)(1) or (2) or (3), as applicable, shall be notified in writing of its industrial classification and rate of contribution.

c) An industrial classification that is properly assigned pursuant to subsection (a)(2) at the beginning of each calendar year or the date of liability, whichever is later, shall be final and conclusive for rate determination purposes for that entire calendar year.

d) This Section shall apply with respect to the calculation of contribution rates for calendar year 2003 and each calendar year thereafter.

(Source: Added at 27 Ill. Reg. 2598, effective February 01, 2003)

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Section 2770.105 Pre 2003 Contribution Rate for Non-Experience Rated Employers (Repealed)

(Source: Repealed at 32 Ill. Reg. 155, effective January 1, 2008)

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Section 2770.106 Post-2002 Contribution Rate for Non-Experience Rated Employers

a) For calendar year 2003 and each calendar year thereafter, the contribution rate under Section 1500(B) of the Act, for each employer who has not incurred liability for the payment of contributions within each of the three calendar years immediately preceding the calendar year for which a rate is being determined, shall be the greater of:

1) 2.7%, plus any applicable fund building rate, as imposed by Section 1506.3 of the Act [820 ILCS 405/1506.3]; or

2) 2.7%, multiplied by the adjusted State experience factor, plus any applicable fund building rate, as imposed by Section 1506.3 of the Act; or

3) The employer's contribution rate calculated pursuant to Sections 1501 through 1507 of the Act [820 ILCS 405/1501 through 1507], but only if this employer has had at least 13 consecutive months experience with the risk of unemployment by the June 30 preceding the calendar year for which a rate is being determined, plus any applicable fund building rate, as imposed by Section 1506.3 of the Act; or

4) The mean average contribution rate of all experience rated employers within the specific Economic Sector, plus any applicable fund building rate, as imposed by Section 1506.3 of the Act.

A) The mean average contribution rate for an Economic Sector shall be determined by adding the rates of all experience rated employers in that sector and dividing the sum by the number of the employers. The rate computation shall be made for each of the applicable years as of July 31 of the preceding year. Any change in the industrial classification or the contribution rate of the experience rated employers made after the date of computation shall not affect the established average rate for the Economic Sector.

B) Experience rated employers whose liability was terminated on or before July 31 of the calendar year used in the computation in subsection (a)(4)(A) shall be included for computation purposes, unless prior to such date, a successor has succeeded to the experience rating record of the employer. In these instances, only the successor rate shall be used.

b) The mean average contribution rate for each Economic Sector, determined pursuant to subsection (a)(4)(A) and (B), shall be announced annually by the Director, during the last quarter of the year preceding the applicable year. For calendar year 2009 and each calendar year thereafter, the Director shall announce the contribution rate calculated for an Economic Sector pursuant to subsection (a)(4) by posting it on the Department's website, www.ides.state.il.us, during the last quarter preceding the applicable year, and not by rulemaking.

c) Appeals from any determinations under Section 2770.101 or 2770.106 shall be taken pursuant to and governed by Section 1509 of the Act.

(Source: Amended at 32 Ill. Reg. 18966, effective December 1, 2008)

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Section 2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes (Repealed)

(Source: Repealed at 32 Ill. Reg. 155, effective January 1, 2008)

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Section 2770.111 Average Contribution Rates By North American Industry Classification System (NAICS) Assignment (Repealed)

(Source: Repealed at 43 Ill. Reg. 6503, effective May 14, 2019)

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SUBPART B: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section 2770.150 Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)

(Source: Repealed at 14 Ill. Reg. 18280, effective October 30, 1990)

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Section 2770.155 Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)

(Source: Repealed at 14 Ill. Reg. 18280, effective October 30, 1990)

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Section 2770.160 Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)

(Source: Repealed at 14 Ill. Reg. 18280, effective October 30, 1990)

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Section 2770.165 Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)

(Source: Repealed at 14 Ill. Reg. 18280, effective October 30, 1990)

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Section 2770.170 Appeals (Repealed)

(Source: Repealed at 14 Ill. Reg. 18280, effective October 30, 1990)

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SUBPART C: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section 2770.400 Definitions (Repealed)

(Source: Repealed at 15 Ill. Reg. 8553, effective May 24, 1991)

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Section 2770.405 Application Of Base Period Wages (Repealed)

(Source: Repealed at 15 Ill. Reg. 8553, effective May 24, 1991)

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Section 2770.410 Restriction On Benefit Wage Transfers (Repealed)

(Source: Repealed at 15 Ill. Reg. 8553, effective May 24, 1991)

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Section 2770.415 Benefit Wage Transfer Procedural Requirements (Repealed)

(Source: Repealed at 15 Ill. Reg. 8553, effective May 24, 1991)

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Section 2770.420 Petition For Hearing (Repealed)

(Source: Repealed at 15 Ill. Reg. 8553, effective May 24, 1991)

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SUBPART D: BENEFIT WAGE CANCELLATIONS

Section 2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act (Repealed)

(Source: Repealed at 43 Ill. Reg. 6503, effective May 14, 2019)

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Section 2770.TABLE A General SIC Classifications (Repealed)

(Source: Repealed at 32 Ill. Reg. 155, effective January 1, 2008)

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SUBCHAPTER d: COLLECTION AND REFUND
PART 2790 COLLECTION OF UNEMPLOYMENT CONTRIBUTIONS
SUBPART A: GENERAL PROVISIONS

Section 2790.1 Collection Remedies The Same For Contributions And Payment In Lieu Of Contributions

All the remedies available to the Director for collecting unpaid contributions are also available for collecting payments in lieu of contributions payable by a reimbursable employer.

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Section 2790.5 When Collection In Jeopardy, Payment Period Shortened

a) In every case where the collection of the full amount of the accrued contributions or payments in lieu of contributions may be jeopardized by delay, the Director may at any time, in writing, demand and enforce payment of any such contributions, or reimbursements without waiting for the last day of the month next following the calendar quarter for which the contributions have accrued, or the last day of the thirty days from the mailing date of the statement of amounts of the benefits to be reimbursed.

b) Examples of when the Director may shorten the payment period in case of jeopardy are where an employer voluntarily or involuntarily ceases business, liquidates, transfers his assets, merges or consolidates with some other individual or employment unit, assigns for benefit of creditors, or is adjudicated bankrupt, or in case of death of the proprietor or dissolution of the employing unit.

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Section 2790.10 Cases When Collection May Be Deferred

The Director may desist from collecting an unpaid account if from all the facts presented to him, it is shown that the amount that can be realized is not commensurate with the cost of collection. He may also defer collection if upon proper application and showing of all pertinent facts, a nonprofit organization or governmental entity proves to the satisfaction of the Director that collection enforcement at a particular time would make its continued operation not possible. The Director shall deny the application to defer collection if the collection of taxes will be jeopardized by delay.

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Section 2790.15 Contributions of Less Than $2.00 Disregarded

If, at any time, the total amount payable with respect to a quarter, including any contributions, payments in lieu of contributions, interest or penalties is less than $2.00, that amount shall be disregarded. For experience rating and certification purposes, amounts disregarded pursuant to this Section shall be considered as paid.

(Source: Amended at 43 Ill. Reg. 1606, effective January 15, 2019)

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Section 2790.20 No Refund of Disregarded Contributions

No refund or adjustment under Section 2201 of the Act will be granted for an amount disregarded but not actually paid (see Section 56 Ill. Adm. Code 2790.15).

(Source: Amended at 43 Ill. Reg. 1606, effective January 15, 2019)

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Section 2790.25 Reimbursement of Lien Recording Fee

Except in instances in which the Department filed its lien in error, and except when an employing unit's liability covered by a lien arose solely under Section 2600 of the Act, the Director shall not issue a release, withdrawal or partial release of his or her lien unless and until the employer reimburses the Director for any recording fees paid with respect to the lien. If a recorded lien covers multiple quarters, recording fees will be attributed to the oldest quarter covered by the lien that is not attributable to liability that arose solely under Section 2600 of the Act.

EXAMPLE: An employer owes contributions, penalties and interest for a quarter totaling $500. The Director has incurred $50 in recording fees with respect to the filing of a lien. The employer sends a payment of $500 to the Department and requests a release of the recorded lien. The Department will not release the recorded lien because the first $50 was applied to reimburse the Director for the lien recording fee under the application of payment provisions at Section 2765.45 and, therefore, the liability that gave rise to the lien has not been paid in full.

(Source: Added at 43 Ill. Reg. 1606, effective January 15, 2019

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SUBCHAPTER e: RIGHTS AND DUTIES OF EMPLOYEES
PART 2815 EMPLOYEES' GENERAL RIGHTS AND DUTIES
SUBPART B: DEDUCTION OR ASSIGNMENT OF BENEFITS

Section 2815.100 Benefit Rights Not Subject to Waiver, Transfer, or Claims of Creditors

The right to receive unemployment benefits cannot be waived, transferred, or released by agreement. Neither can it be the subject of assignment, pledge, encumbrance, or claim of creditors. Any such agreement is against public policy and void. However, where the agreement to deduct from benefits or the assignment of benefits is made under the conditions provided in Section 2815.105 of this Part, such agreement or assignment may be enforced pursuant to the provisions of Section 1300 of the Unemployment Insurance Act [820 ILCS 405/1300] (Act).

(Source: Amended at 33 Ill. Reg. 9668, effective July 1, 2009)

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Section 2815.105 Deductions from Unemployment Benefits for Past Due Child Support

a) Whenever the Director is served by the Illinois Department of Healthcare and Family Services with a copy of a court or administrative order for withholding of income on behalf of the persons specified in subsection (c), the Director shall deduct from an individual's benefits past due child support in the designated amount.

b) Whenever an individual enters into an agreement for the deduction of a specified sum from his benefits under the Act in order to pay past due child support, this agreement may be enforced by the Illinois Department of Healthcare and Family Services by presenting to the Director the original of the agreement and requesting that the support payments sought to be satisfied be deducted out of the benefits payable to an individual required to provide support. The agreement must be signed by the individual and state clearly the amounts to be deducted from his benefits, in whose favor the support payments are payable, during which periods the deductions are to be made, and by what authority the individual is required to make support payments. If the Director is satisfied that the agreement meets the requirements of this subsection (b), deductions shall be made in the amounts specified in the agreement.

c) The Illinois Department of Healthcare and Family Services may enforce and collect from the Director any assignment of benefits to, or agreement for deductions for the benefit of, the following persons:

    1) Those receiving a grant of financial aid under Article IV of the Illinois Public Aid Code [305 ILCS 5/Art. 4];

    2) Those whose application for support services under Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1] has been approved; and

    3) Those receiving public aid or support services from other states.

d) In every case where there is a court-ordered assignment of wages for past due child support, this assignment of wages shall also be considered an order for withholding of income which can be enforced for collection under subsection (a).

(Source: Amended at 33 Ill. Reg. 9668, effective July 1, 2009)

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Section 2815.110 Deductions from Benefits to be Paid to the Illinois Department of Healthcare and Family Services

All deductions authorized under Section 2815.105 shall be paid to the Illinois Department of Healthcare and Family Services. These payments are considered constructively made to the individual and they shall be defense to the Director against claims of the individual whose benefits have been reduced by the deductions taken.

(Source: Amended at 33 Ill. Reg. 9668, effective July 1, 2009)

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Section 2815.115 Illinois Department of Healthcare and Family Services Acting for the Director
In order to insure prompt action on all orders for withholding of income or agreements to deduct referred to in Section 2815.105 and to insure speedy review of the Director's orders granting deductions, the Director appoints the Division of Child Support Services, Illinois Department of Healthcare and Family Services, as the Director's agent to act for and on behalf of the Director in the following cases:

a) To receive service of the court or administrative order for withholding of income or to accept the presentation of an agreement to deduct from the Illinois Department of Healthcare and Family Services required in Section 2815.105(a) and (b);

b) To determine the sufficiency of the order or the agreement in accordance with the requirements provided in Section 2815.105;

c) To design and adopt a compatible program that could be entered in the Agency's computer system and enable the Director:

    1) To know if the beneficiary of the order or the party to the agreement is a claimant receiving benefits under the Act;

    2) To start or stop the deductions from benefits after the issuance of the appropriate order by the Director;

d) To receive all filings of appeals connected with the Director's order granting the deduction from benefits and forward them to the Department of Employment Security, in care of the Appeals Division, at the address stated in 56 Ill. Adm. Code 2712.10;

e) To receive and respond to all inquiries relating to the implementation of orders to stop further deductions, the enforcement and collection of orders for withholding of income or agreements to deduct, and the procedure for making an appeal from an order granting deductions. The inquiries shall be addressed to: Illinois Department of Healthcare and Family Services, Attn.: Division of Child Support Services, P.O. Box 19405, Springfield, Illinois 62794.

(Source: Amended at 49 Ill. Reg. 11159, effective August 20, 2025)

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Section 2815.120 Order of Deductions From Benefits

After the Division of Child Support has made a determination that the order or the agreement meets the requirements in Section 2815.105 and that the subject of the order or the party to the agreement is a claimant receiving benefits under the Act, it must recommend to the Director the issuance of an order of deduction from benefits and certify as to its correctness. The Division of Child Support shall not initiate a deduction from benefits unless and until such an order has been issued by the Director.

(Source: Amended at 11 Ill. Reg. 7270, effective April 3, 1987)

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Section 2815.125 Notice of Deductions and Right of Appeal

a) The Director shall give notice to the individual whose benefits will be affected by the Director's order of deduction at the same time that the order for withholding or the agreement to deduct is entered into the Director's computer system by the Division of Child Support of the Illinois Department of Healthcare and Family Services. The notice shall state the amount of deductions, the authority for the deductions, and the claimant's right to appeal the order of deduction in the same manner as appeals under Sections 800 and 803 of the Act [820 ILCS 405/800 and 803], and of 56 Ill. Adm. Code 2720. The appeal shall be filed pursuant to Section 2815.115 of this Part. However, deductions shall continue during the pendency of the appeal.

b) At the hearing on appeal, the only issue to be resolved is the validity of the order or deduction agreement. If there has been a previous proceeding conducted by the Illinois Department of Healthcare and Family Services for this purpose, the claimant contesting the validity of the order or the agreement must show why the decision of the Illinois Department of Healthcare and Family Services should not be given full faith and credit.

(Source: Amended at 33 Ill. Reg. 9668, effective July 1, 2009)

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Section 2815.130 Improper Deductions from Benefits

When in the appeal process or in any proceedings, it is found that deductions from the claimant's benefits pursuant to Section 2815.105 are improper or not in accordance with the law, the Director shall, after due notice to all parties, stop further deductions. Requests for reimbursements of improper deductions must be directed to the Illinois Department of Healthcare and Family Services, Division of Child Support, at the address specified in Section 2815.115(e).

(Source: Amended at 33 Ill. Reg. 9668, effective July 1, 2009)

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PART 2830 PAYMENT OF BENEFITS
SUBPART A: GENERAL PROVISIONS

Section 2830.10 Mailing Address for Benefit Checks and Debit Cards

a) The Department uses a third-party vendor to issue, mail and manage all benefit checks and debit cards. Benefit checks and debit cards will be mailed to the address provided by the claimant in accordance with 56 Ill. Adm. Code 2720.35. The vendor will only mail a benefit check or debit card to the address given to the vendor by the Department. It is the claimant's responsibility to ensure the Department has the claimant's correct address.

b) Neither benefit checks nor debit cards will be mailed to a Post Office box unless the claimant provides the local office with a home address and an explanation of why the claimant wants the benefit check or debit card sent to a Post Office box.

c) Neither benefit checks nor debit cards will be mailed to an address outside of the United States or Canada unless the claimant provides a reason that indicates only a temporary absence from this country or Canada.

(Source: Amended at 46 Ill. Reg. 5671, effective March 24, 2022)

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Section 2830.50 Calculating The "National Average Of This Ratio" Under Section 401 Of The Act (Repealed)

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

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SUBPART B: PAYMENT TO DECEASED CLAIMANTS

Section 2830.200 Payment of Benefits Due a Deceased or Comatose Claimant

a) When the Department becomes aware that a claimant has died or become comatose before receiving benefits to which the claimant is entitled, the Department will make payment to the account designated by the individual for direct deposit or the debit card assigned to the claimant by the Department. If the Department is unable to make payment to the deceased or comatose claimant's direct deposit account, the Department will make payment by debit card, or, if at the time of such payment, the payment cannot be made by way of debit card then the benefits will be paid by way of a paper check that will be made payable to the order of "The Estate or Heirs of" the claimant. However, any benefit checks previously issued to the individual that have not been presented for payment must be returned to the Director, or an affidavit must be submitted stating that the benefit checks were lost, stolen, or destroyed. In the event of a benefit payment to a deceased or comatose claimant, under no circumstances will a check be made payable to the order of more than one payee nor to a named individual.

b) In the case of a claimant who became and remains comatose or who died prior to certifying for benefits, a completed certification form must be submitted by an individual with first-hand knowledge of the matters asserted in the certification, together with an affidavit attesting that the individual has first-hand knowledge and that the matters asserted are true to the best of that individual's knowledge. The completed certification form must be submitted within nine months after the date of death or entry into the comatose state. Unless the certification form is received within nine months after the date of death or entry into the comatose state, any benefits due the deceased or comatose claimant shall revert to and be returned to the State's unemployment trust fund. The certification form shall be submitted to a local unemployment office either in person or by certified mail, shall be supported by an affidavit setting forth the relationship to the deceased or comatose claimant, and shall be accompanied by a certified copy of the death certificate for the deceased claimant or, in the case of a comatose claimant, the statement of a licensed and practicing physician indicating the date as of which the claimant became comatose. The forms required to certify for a deceased or comatose claimant are available at local unemployment offices or by calling Claimant Services. The telephone number for Claimant Services is 800-244-5631 and is available on the Department's website (ides.illinois.gov). Under no circumstances shall the claimant's eligibility extend beyond the date that the claimant died. Under no circumstances shall a claimant be eligible for benefits for the period during which the claimant was in a comatose state.

(Source: Amended at 46 Ill. Reg. 5671, effective March 24, 2022)

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Section 2830.205 Order Of Payment To Survivors Of A Deceased Claimant (Repealed)

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.206 Order of Payment on Behalf of a Comatose Claimant (Repealed)

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.210 Payment to a Minor Survivor of a Deceased Claimant or to a Minor When the Claimant is Comatose (Repealed)

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.215 Time and Manner for Claiming Benefits Due a Deceased or a Comatose Claimant (Repealed)

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.220 Right of Appeal (Repealed)

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

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SUBPART C: REISSUANCE OF BENEFIT CHECKS, MISDIRECTED PAYMENTS OR LOST OR STOLEN DEBIT CARDS

Section 2830.300 Requests for Reissuance of Checks Or Replacement of Electronic Payments

a) With respect to benefit payments made by paper check:

1) If the claimant is filing an intrastate claim (see 56 Ill. Adm. Code 2714 for interstate claims) and is seeking the reissuance of a benefit payment check, the claimant shall contact the Department by calling Claimant Services, obtain a required form provided by the Department, provide the Department with Department-requested documents that prove the claimant's identity, and, on the required Department form, request reissuance of the check. The documents required to prove the claimant's identity are a copy of both sides of the claimant's current and valid driver's license or State identification card and a copy of both sides of the claimant's valid Social Security card. The telephone number for Claimant Services is 800-244-5631 and is available on the Department's website (ides.illinois.gov).

A) If the original check has been returned to the Department by either the claimant or the Post Office, the Department will promptly cause a replacement check to be issued to the claimant.

B) If the original check has not been processed by the payor financial institution and has not been returned, the Department will cause payment to not be issued on the check. After confirmation that the stop on the payment of the check has been processed, the Department will promptly cause a replacement check to be issued to the claimant.

C) If the original check has already been processed by the payor financial institution and has not been returned, the claimant will be sent instructions as outlined in Section 2830.305.

2) Requests by a second endorser for replacement of a benefit check that has not already been processed by the payor financial institution shall be made in writing to the Illinois Department of Employment Security, in care of the Accounting Services Division, Trust Fund Unit, at the address stated in 56 Ill. Adm. Code 2712.10.

A) If the original benefit check was lost, mutilated or stale-dated after receipt by the second endorser, and if proof of that action is provided to the Department, disbursement of the funds to cover the check will be made to the second endorser.

B) If the original benefit check was subject to a stop payment order initiated by the claimant pursuant to subsection (a)(1)(B), the matter will be sent to the Benefit Payment Control Division for an investigation pursuant to Section 2830.310.

b) With respect to benefit payments made by way of debit card or direct deposit:

1) Any issue concerning a benefit payment that, in the case of a debit card, was deposited into an account assigned to the claimant or, in the case of direct deposit, was deposited into an account designated by the claimant, must be resolved between the claimant and the financial institution at which the payment was deposited according to the terms and conditions of the cardholder or account agreement.

2) When the claimant alleges that a debit card was mailed to an address that the claimant did not

authorize, that a benefit payment was not deposited into an account that the claimant authorized, or that a benefit payment was not credited to the debit card assigned to the claimant, the claimant may file a request for review of the payment at a local office, on a form provided by the Department, or by calling Claimant Services (see 56 Ill. Adm. Code 2714 for interstate claims). The telephone number for Claimant Services is 800-244-5631 and is available on the Department's website (ides.illinois.gov). If a claimant's telephone inquiry cannot be resolved over the phone, the Department will provide the claimant with any forms needed to proceed. All requests for review of payment shall be submitted to the Department's Accounting Services Division to determine if the issue can be resolved by the Department or if the claimant should be referred to the financial institution in which the payment was deposited. If the request is made in person at the local office, the forms needed to request review by the Department's Accounting Services Division will be forwarded by local office staff. Forms submitted by the claimant directly must be mailed to the Department's address provided on the form. When identity theft has been alleged, the Department's Accounting Services Division will refer the matter to the Department's Benefit Payment Control Division for an investigation as provided in Section 2830.310.

(Source: Amended at 49 Ill. Reg. 11163, effective August 20, 2025)

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Section 2830.303 Lost Or Stolen Debit Cards

A claimant must report a lost or stolen debit card immediately to the financial institution that issued the card by calling the telephone number provided on the cardholder agreement provided by the financial institution. The telephone number will also be available on the Department's website. A replacement card will be issued in accordance with the terms and conditions of the cardholder agreement.

(Source: Added at 32 Ill. Reg. 13183, effective July 24, 2008)

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Section 2830.305 Where Original Benefit Check Has Been Processed By The Payor Financial Institution

a) When a claimant makes a request for reissuance of a payment pursuant to Section 2830.300 and the Department determines that the check has already been processed by the payor financial institution, the Department will send the claimant a copy of the check and an Affidavit of Non-Endorsement. If the claimant believes that neither the claimant nor the claimant's authorized agent endorsed the check, then within 30 days after the mailing of the copy of the check the claimant must file the completed Affidavit of Non-Endorsement with the Department. Instructions for making the filing appear on the document.

b) When a request for reissuance of a benefit check is made by a second endorser and the original benefit check has been processed by the payor financial institution, the request must be made within 90 days after the date that the check was paid by the payor financial institution.

(Source: Previous Section 2830.305 repealed at 43 Ill. Reg. 1610, effective January 15, 2019; New Section added at 46 Ill. Reg. 5671, effective March 24, 2022)

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Section 2830.310 Check, Debit Card Or Direct Deposit Authorization Investigation

a) When an investigation is to be conducted because the claimant claims nonreceipt of a benefits check or the proceeds of a payment, the claimant must file a completed Affidavit of Non-Endorsement, in the case of a paper check, or a Payment Tracer and Affidavit of Non-Receipt of UI Benefits Form, in the case of an electronic payment, in accordance with the filing instructions stated on the appropriate form. Each of these forms will be provided by the Department, and the claimant may request these forms by calling Claimant Services. The telephone number for Claimant Services is 800-244-5631 and is available on the Department's website (ides.illinois.gov). When submitting the appropriate completed Affidavit, the claimant must also submit proof of identification by including photocopies of requested documents. The documents required to prove the claimant's identity are a copy of both sides of the claimant's current and valid driver's license or State identification card and a copy of both sides of the claimant's valid Social Security card. When an Affidavit has been filed at a local office, all materials relevant to the investigation shall be forwarded to the Department's Benefit Payment Control Subdivision.

b) The Department's Benefit Payment Control Subdivision will conduct an investigation, including an interview of the claimant as provided in Section 2830.325, and will issue a decision either allowing or denying the request for reissuance of payment as provided in Section 2830.335.

c) Prior to the interview required by Section 2830.325, the Department employee who conducted the initial investigation shall record the results of the following in chronological order:

1) Any contact with the second endorser or payor financial institution. Any relevant information or evidence, such as check cashing registration cards or direct deposit information, should be noted and included in the file;

2) Contact with additional witnesses as might be deemed necessary by the Department employee who conducted the investigation; and

3) Any contact with the claimant, including any background information that might have been discovered.

(Source: Amended at 46 Ill. Reg. 5671, effective March 24, 2022)

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Section 2830.315 Notice of Interview

a) Written notice of the date, time and place of the interview will be mailed to the claimant, at the address shown on the Affidavit of Non-Endorsement or on the Payment Tracer and Affidavit of Non-Receipt of UI Benefits Form submitted by the claimant, at least 10 days prior to the date of the interview.

b) The notice of interview will identify the facts and issues to be covered by the interview.

(Source: Amended at 46 Ill. Reg. 5671, effective March 24, 2022)

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Section 2830.320 Continuances

The Department employee to whom the matter is assigned shall grant continuances only for good cause shown. When a continuance is granted, the interview shall be rescheduled for the earliest possible time convenient to all parties. All parties shall be informed of the date, time and place of the rescheduled interview either orally or in writing.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.325 Check, Debit Card Or Direct Deposit Authorization Interview

a) The Department employee assigned to the matter shall conduct an interview of the claimant that is limited to the issues set forth in the notice of interview.

b) All testimony at the interview shall be made under oath or affirmation.

c) At the interview, the Department employee assigned to the matter shall:

1) Inform the parties of the purpose of the interview and of their rights under the Act and the rules promulgated thereunder;

2) Present to the claimant all relevant material obtained during the investigation;

3) If the second endorser is present, take any testimony offered by the second endorser on the cashing of the benefit check;

4) Provide the claimant with an opportunity to explain any reasons or to present any evidence that would show that the signature on the benefit check, change of address or direct deposit authorization form is not the claimant's (or otherwise that one of these forms is not authentic if it was submitted via the internet), and then allow the claimant to cross-examine any witnesses at the hearing or rebut any other evidence presented; and

5) Issue a decision on the available facts, even if the claimant does not appear at the interview (there shall be no defaults for want of prosecution, though the claimant may withdraw the request for reissuance).

(Source: Amended at 46 Ill. Reg. 5671, effective March 24, 2022)

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Section 2830.330 The Record

A complete record shall be maintained of the interview by the Department employee assigned to the matter. The record will consist of a written summary of the testimony of the parties and their witnesses and copies of all documents, reports, briefs, motions and findings in the matter.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.335 Decision

a) A decision shall be made in writing, shall separately state findings of fact and conclusions of law, and shall be mailed to the parties.

b) A decision to allow or deny a claim for reissuance of payment under this Subpart shall be based on the testimony and evidence in the record and not solely on an analysis of the claimant's handwriting. The formal rules of evidence shall not, however, apply in these matters.

c) No decision shall be based solely on unobjected to hearsay testimony when the claimant has testified to the contrary under oath unless the Department employee assigned to the matter finds that the claimant's testimony is incredible, inconsistent or inherently improbable.

d) No decision shall be based on evidence that the claimant has not had an opportunity to review and rebut. The claimant shall be deemed to have waived his or her right to review and rebut when he or she fails to appear at the scheduled hearing.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.340 Appeals

The decision described in Section 2830.335 shall constitute a final administrative decision, subject to review under the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

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PART 2835 RECOVERY OF BENEFITS
SUBPART A: GENERAL PROVISIONS

Section 2835.1 Recovery of Benefits by Recoupment

a) The Director may recover by recoupment any unemployment insurance benefits that are determined to have been overpaid to an individual. Recoupment is a method by which the Director deducts from any benefits payable to a claimant the amounts of benefits he was found not entitled to receive under the law.

b) The recoverable amounts may be either regular or extended benefits paid under either the Unemployment Insurance Act [820 ILCS 405] (Act), or the Federal Unemployment Compensation Act for Federal Employees (5 USC 8501 et seq.) or Ex-Servicemen (5 USC 8521 et seq.) (UCFE and UCX) programs administered by the Director or any other federal unemployment insurance program administered by the Director (see Table A).

(Source: Amended at 32 Ill. Reg. 18978, effective December 1, 2008)

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Section 2835.5 Amounts Recoverable by Recoupment

a) Benefits paid under state law subject to recoupment:

1) The entire amount of benefits previously paid to a claimant later found ineligible pursuant to a reconsidered Finding or reconsidered Determination, or pursuant to a Decision of a Hearings Referee or of the Director under Section 604 of the Act, which modifies or sets aside a Finding or Determination or a reconsidered Finding or reconsidered Determination. To the extent allowed by law, such benefits will be recouped from future State or federal benefits payable to a claimant as set forth in Table A. For purposes of this Section only, if the Board of Review remands a case to the Hearing Referee who then decides that the claimant is ineligible for benefits, such Decision shall make any benefits for which the claimant is then ineligible subject to recoupment.

EXAMPLE: The Referee affirms a Determination by an Adjudicator holding a claimant eligible for benefits which have been paid to the claimant. Upon appeal, the Board of Review remands the case back to the Referee who then sets aside the Adjudicator's Determination and holds the claimant ineligible. The benefits for which the claimant was overpaid are now subject to recoupment.

2) Benefits paid to a claimant for weeks with respect to which he or she received wages by reason of a back pay award made by a governmental agency or pursuant to arbitration proceedings or by reason of payment of wages wrongfully withheld by an employing unit.

b) Benefits paid under federal programs subject to recoupment:

1) Benefits paid to UCFE-UCX claimants who have been found ineligible to receive such benefits in a reconsidered Finding or Determination, or in a Decision of a Hearings Referee or the Director, may be recouped from either future UCFE-UCX benefits, or State or other federally funded benefits payable to such claimant.

2) Recoupment of benefits paid to ineligible claimants under other federal programs administered by the Director shall be governed by the applicable federal law.

c) Waiver of Recoupment − Recoupment from future benefits referred to in subsections (a) and (b) may be waived from week to week in the manner provided in Section 2835.30 of this Part.

(Source: Amended at 32 Ill. Reg. 18978, effective December 1, 2008)

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Section 2835.10 Time Limits Within Which to Recoup Benefits

a) Benefits obtained by means of fraud: When the claimant knowingly makes a false statement or knowingly fails to disclose a material fact in order to receive regular or extended benefits to which he or she is ineligible, such benefits may be recouped at any time from future benefits payable to the claimant. See Table A for the time limits regarding recoupment of benefits obtained by means of fraud under federal programs, including UCFE-UCX and special programs.

b) Benefits obtained without fraud: When a claimant has been found ineligible to receive regular or extended benefits for any reason other than reasons stated in subsection (a), the benefits received may be recouped within five years from the date the claimant was found ineligible by a Claims Adjudicator, Hearings Referee or by the Director. The same time limit of five years shall apply to the recoupment of regular or extended UCFE-UCX benefits paid to ineligible claimants for any reason other than the reason stated in subsection (a).

c) With respect to other federally funded benefits administered by the Director, the provisions of the appropriate federal law shall be applicable.

(Source: Amended at 32 Ill. Reg. 18978, effective December 1, 2008)

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Section 2835.15 Extent of Recoupment

a) Benefits recoverable under Section 2835.5(a) shall be recouped in full or to the extent of the benefits payable to the claimant, subject to the time limits provided in Section 2835.10.

1) The amount to be recouped in any particular week shall not exceed 25% of the claimant's weekly benefit amount provided that the recoverable benefits were not obtained by fraudulent means stated in Section 2835.10(a). The same limitation on the amount of recoupment shall apply to UCFE-UCX and Trade Readjustment Allowance (TRA) benefits (see 19 USC 2291-2298).

2) With respect to other federally funded benefits administered by the Director, the provisions of the appropriate federal law shall be applicable.

b) If the claimant knowingly makes a false statement or knowingly fails to disclose a material fact in order to receive benefits to which he or she is not entitled, the entire weekly benefit amount payable to the claimant is subject to recoupment until the full amount of the recoverable benefits has been completely recovered.

c) The extent and period of time for recoupment, as defined in Section 2835.10 and this Section, except for TRA benefits, shall be as set forth in Table A.

(Source: Amended at 32 Ill. Reg. 18978, effective December 1, 2008)

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Section 2835.20 Notice Of Recoupment Decision

The individual whose benefits have been decided by the claims adjudicator to be the subject of recoupment shall be given prompt notice of the decision, which shall state the reason for recoupment, the weeks with respect to which such sum was received by the individual, the time within which the benefits may be recouped, and the right to seek waiver or recoupment and the grounds for such waiver.

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Section 2835.25 Reconsideration Or Appeal Of Recoupment Decision

a) The individual who has received a notice of recoupment decision may ask for a reconsideration of this decision by the claims adjudicator at any time within one year from the date of the decision, or appeal the decision to a hearings referee within thirty days after it has been delivered to him or mailed to his last known address.

b) The reconsidered decision, if any, is also appealable to a hearings referee within thirty days after it has been delivered to him or mailed to his last known address.

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Section 2835.30 Waiver Of Recoupment

a) Recoupment from benefits payable to an individual for any week may be waived as to that week, upon the claimant's request in writing.

1) The application for waiver shall identify the recoupment decision provided in 56 Ill. Adm. Code 2835.20, or shall have attached to it a copy of the recoupment decision.

2) The application shall state the circumstances that would cause the claimant extreme financial hardship, provided in 56 Ill. Adm. Code 2835.45, if the recoupment decision is enforced.

3) The claimant shall produce to the claims adjudicator any evidence in his possession that would establish the basis for the waiver of the recoupment.

b) The Director shall approve the request for waiver of recoupment from benefits for a week or weeks for which the claimant certified as to his eligibility if the benefits have not been paid and if the claimant is able to prove that he received the recoverable benefits without fault, and recoupment in the week(s) would be against equity and good conscience pursuant to 56 Ill. Adm. Code 2835.45.

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Section 2835.33 Waiver of Recovery (TRA)

The Agency shall waive the recovery of any overpayment of TRA benefits, to the extent authorized to do so under 20 CFR 617.55, as it is on December 1, 2008 without regard to any later amendments.

(Source: Added at 32 Ill. Reg. 18978, effective December 1, 2008)

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Section 2835.35 Benefits Received With Fault

If, as a result of a reconsidered finding or reconsidered determination, or a decision of a hearings referee or of the Director, the claimant is denied benefits for which he had previously been held to be eligible because he was found to have fraudulently obtained such benefits as provided in 56 Ill. Adm. Code 2835.10(a), such reconsideration or decision shall be conclusive proof that the claimant received the recoverable benefits with fault.

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Section 2835.40 Benefits Received Without Fault

The receipt of any sum paid to a claimant as benefits, due to agency error, is without fault. A good faith mistake of fact by the claimant in the filing of his claim for benefits which results in an overpayment of benefits does not constitute fault.

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Section 2835.45 Recoupment Against Equity and Good Conscience

a) Recoupment will be considered to be against equity and good conscience if the recoupment would cause the individual extreme financial hardship. For this purpose, extreme financial hardship shall mean the inability to meet vital financial obligations that cannot be deferred. These obligations include:

1) Rent, if the individual has received an eviction notice or five day notice from the landlord;

2) Utility bills, if the individual has received a utility cutoff notice;

3) Unexpected medical bills not covered by insurance; and

4) Other debts incurred for essential living expenses, the payment of which cannot be deferred.

b) The decision whether the recoupment would cause an individual extreme financial hardship shall be based on an assessment of the individual's complete financial situation. Factors such as the extent of an individual's savings and his or her eligibility for welfare or other forms of public assistance shall be relevant in making this decision.

c) Notwithstanding subsections (a) and (b), whenever an individual is overpaid a sum as benefits and the payment of that sum was the result of the individual having claimed a dependent, under Section 401 of the Act, when a dependent child of that same parent had already been claimed as a dependent by the other parent who was also entitled to claim the dependent and the individual had responded negatively to the question on this subject on his/her claim application because the other parent who claimed the dependent had returned to work, recoupment of the overpaid sum shall be deemed to be against equity and good conscience.

(Source: Amended at 43 Ill. Reg. 6512, effective May 14, 2019)

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Section 2835.50 Request For And Decision Regarding Waiver Of Recoupment

a) The initial request for waiver of recoupment must be made in person by the claimant requesting the waiver, unless he or she is physically unable to appear at the local unemployment office closest to his or her place of residence. The request must be made in person, online or through the Teleserve system prior to submitting the certification for benefits for the week recoupment is scheduled to begin.

b) The local unemployment office shall decide promptly whether or not to approve the request for waiver of recoupment. The claimant whose request for waiver of recoupment has been disapproved shall be promptly informed, in writing, of the reasons for the denial of the waiver.

(Source: Amended at 43 Ill. Reg. 6512, effective May 14, 2019)

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Section 2835.55 Reconsideration Or Appeal Of Denial Of Request For Waiver

a) A denial of the request for waiver of recoupment may be considered by the claims adjudicator within one year from the date of the decision.

b) The decision denying waiver or the reconsideration thereof, is also appealable to a hearings referee within thirty days after it has been delivered to the claimant or mailed to his last known address.

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Section 2835.60 Periods When Waiver Of Recoupment Allowed

a) Recoupment waiver may be allowed or denied for weeks for which the claimant has certified and has been found to have met the eligibility requirements for the payment of benefits which have not yet been paid.

b) If the Director is satisfied that recoupment would cause extreme financial hardship over a number of weeks, he may authorize that a request for waiver filed for a particular week be approved for up to a period of two weeks plus any prior weeks for which benefits have not yet been paid.

c) If the conditions which qualified the claimant for a waiver persist beyond the end of the waiver period approved by the Director, the claimant must request waiver for the new period.

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Section 2835.65 Waiver Certifications By Mail

In situations where the individual seeking waiver of recoupment shows that the grounds for waiver relied on under 56 Ill. Adm. Code 2835.30 are of a continued nature, or where the claimant's reporting in person works a hardship on the claimant, as indicated in 56 Ill. Adm. Code 2835.50, the claims adjudicator may permit the claimant requesting periods of waiver under 56 Ill. Adm. Code 2835.50 to certify his eligibility for waiver by submitting the required information by mail.

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Section 2835.67 Waiver of Recovery of Overpayments of Non-federally Funded Regular and Extended Benefits and Short-Time Compensation (WorkShare, IL)

a) The Department will permanently waive recovery of any overpayment of non-federally funded regular and extended unemployment insurance benefits and short-time compensation (WorkShare, IL) benefits received by an individual on or after March 8, 2020 and prior to the last day of a disaster period established by the gubernatorial disaster proclamation in response to COVID-19, dated March 9, 2020, and any consecutive gubernatorial disaster proclamation in response to COVID-19, if the Department determines that:

1) The overpayment was without fault on the part of the recipient; and

2) Recovery would be contrary to equity and good conscience.

b) For purposes of subsection (a)(1), the provisions of Section 2835.35 are applicable in determining whether the benefits giving rise to the overpayment were received with fault on the part of the recipient, and the provisions of Section 2835.40 are applicable in determining whether the benefits giving rise to the overpayment were received without fault on the part of the recipient. The examples below give guidance as to whether the overpayment was without fault on the part of the recipient or whether the overpayment was not without fault on the part of the recipient.

1) EXAMPLE 1: The claimant was discharged from a job. A claims adjudicator issues a determination holding that the discharge was for reasons other than misconduct. The claimant is paid benefits. The employer appeals and an Administrative Law Judge issues a decision that reverses the claims adjudicator's determination, resulting in an overpayment being established. This overpayment is without fault on the part of the claimant because the benefits paid to the claimant were based on the claims adjudicator's finding that the discharge was not misconduct.

2) EXAMPLE 2: In filing a claim for benefits a claimant presents the claims adjudicator with paycheck stubs evidencing that during the claimant's base period, the claimant received remuneration for services performed for Employing Unit A and Employing Unit A had not reported to the Department these payments as wages. The claims adjudicator makes a determination that the payments that the claimant received from Employing Unit A constituted wages, and consequently, the claimant's weekly benefit amount is increased by $100 per week. Employing Unit A appeals and an Administrative Law Judge issues a decision reversing the claims adjudicator, and holding that the payments from Employing Unit A did not constitute wages since the claimant's services for Employing Unit A fell within an exemption from the definition of "employment". The Administrative Law Judge's decision results in the claimant having an overpayment in the amount of $100 for each week that the claimant received benefits with respect to this claim. This overpayment is without fault on the part of the claimant because the benefits paid to the claimant were based on the claims adjudicator's finding that the payments constituted wages for Act-insured employment.

3) EXAMPLE 3: The claimant is a full-time teacher and also works part time at a gym. Although the claimant is paid the full teaching salary during the pandemic, the claimant is laid off by the gym due to the State's closure order. The claimant files a claim for benefits and names the gym as the last employer. When a claimant certifies for benefits each week, all wages earned must be reported. The claimant certifies for benefits each week but does not report the school wages because of the erroneous belief that the claim is being filed "against" the gym. When the failure to report the school

wages is discovered, an overpayment is established. This overpayment is not without fault on the part of the claimant because, while certifying for benefits, the claimant made a material misrepresentation in answering the question about wages earned.

4) EXAMPLE 4: The claimant is held to be ineligible for benefits for the weeks between April 12, 2020 and May 2, 2020, in a determination that became final. Also, in a determination that became final, the claimant's overpayment for those weeks is held to be for fraud under Section 901 of the Unemployment Insurance Act [820 ILCS 405]. Since the claimant's overpayment was adjudicated to finality to be for fraud, the overpayment is not without fault on the part of the claimant. Consequently, the claimant is not eligible to make a request for a waiver of recovery of these overpayments. Therefore, the claimant is not entitled to receive the notice provided in subsection (f) informing an individual that the individual may request a waiver of recovery of the overpayment with respect to the overpayments for these weeks.

c) For purposes of this subsection, "financial hardship" means the inability to meet vital financial obligations that cannot be deferred. For purposes of subsection (a)(2), the provisions of Section 2835.45 are not applicable. Instead, for purposes of subsection (a)(2), recovery of the overpayment will be considered to be against equity and good conscience if:

1) It would cause financial hardship to the person from whom it is sought; or

2) Regardless of the recipient's financial circumstances, the recipient can show that, based on the overpayment or notice that a benefit payment would be made, the recipient has:

A) relinquished a valuable right; or

B) changed positions for the worse; or

3) Recovery would be unconscionable under the circumstances.

d) For purposes of this Section, if the Department has previously recovered overpayment funds from a recipient and that recipient is granted a waiver pursuant to this Section, then that recipient will not be refunded those recovered monies as no authority has been provided to the Department to refund those recovered monies in the Unemployment Insurance Act [820 ILCS 405].

e) A claimant's request for a waiver of recovery of an overpayment of non-federally funded regular or extended unemployment insurance benefits, or short-time compensation (WorkShare, IL) benefits, during the time period in which the Federal Pandemic Unemployment Compensation (FPUC) program provided a supplement to the claimant's weekly benefit amount, and for which the FPUC supplemental amount is included in the overpayment amount, will be treated as a request to waive recovery of the FPUC overpayment, as described in Section 2835.70, as well as recovery of the overpayment based on the non-federally funded regular or extended unemployment insurance benefits or short-time compensation (WorkShare, IL) benefits. The determination or decision will set forth the findings for allowing or denying waiver of recovery of the overpayment based on the non-federally funded regular or extended unemployment insurance benefits or the short-time compensation (WorkShare, IL) benefits and the FPUC overpayment, and will include the reason for the determination or decision, and when waiver is allowed, the time period of the waiver and the amount waived.

EXAMPLE: A claimant files a request for waiver and provides related information to waive a regular unemployment insurance overpayment from the week beginning June 7, 2020 through the week ending August 15, 2020. In this case, the FPUC program provided a $600 supplement to the claimant's weekly benefit amount for weeks between June 7, 2020 through the week ending July 25, 2020, and the FPUC supplements are included as part of the overpayment. The adjudicator determines that the claimant's request meets the criteria for a waiver of both overpayments, and states in the determination:

1) the reasons for the waivers;

2) a waiver of recovery of the regular overpayment is granted for the period from the week beginning June 7, 2020 through the week ending August 15, 2020;

3) the FPUC waiver is granted for the period from the week beginning June 7, 2020 through the week ending July 25, 2020; and

4) the amount waived for each program.

f) The Department will identify the individuals who have received an overpayment of non-federally funded regular or extended unemployment insurance benefits or short-time compensation (WorkShare, IL) benefits during the period provided in subsection (a), and to each individual, the Department will mail a notice informing the individual that the individual may request a waiver of recovery of the overpayment. Pursuant to 56 Ill. Adm. Code 2720.5, the notice will be sent to the last known address of the individual as the term "last known address" is defined at 56 Ill. Adm. Code 2720.35. In order to be eligible for the waiver of recovery of the overpayment, the individual must file the request within 45 days after the mailing date of the notice.

EXAMPLE: The Department sends the notice provided in subsection (f) to the claimant at the last address that the claimant had provided to the Department. However, the claimant moved to a different address, notified the United States Postal Service of the new address, but did not provide the Department with the new address. Service of the notice to the claimant at the last address provided to the Department is proper, and the fact that the claimant notified the United States Postal Service of the new address does not extend the 45 days within which the claimant must file the request for waiver in order for the request for waiver to be timely.

g) The notice provided in subsection (f) will:

1) be a letter generated by the Department that provides the claimant with notice that the claimant may request waiver of recovery of one or more overpayments;

2) be used by the claimant in making the claimant’s request for a waiver of recovery of any overpayment;

3) contain a questionnaire for the claimant to provide the information required in subsection (a); and

4) provide filing instructions for the claimant.

h) A determination by an adjudicator for a waiver of recovery of an overpayment pursuant to this Section may be based on the claimant's interview or written responses contained in the notice described in

subsection (g). An interview need not be conducted unless the adjudicator determines that more information is needed to make the determination.

i) A determination, pursuant to this Section, on a recipient's request for a waiver of recovery of an overpayment will be subject to reconsideration and appeal as set forth in Sections 703, 800, 801, and 803 of the Unemployment Insurance Act [820 ILCS 405].

(Source: Added at 46 Ill. Reg.5683, effective March 24, 2022)

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Section 2835.70 Waiver of Recovery of Overpayments Under Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), and Mixed Earner Unemployment Compensation (MEUC) Programs, and the First Week of Benefits Funded by the Federal Government

a) The Department will waive recovery of any overpayment under the Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), and/or Mixed Earner Unemployment Compensation (MEUC) programs, and the first week of benefits funded by the federal government under any State or federal unemployment program, paid to a recipient if the Department determines that:

1) The overpayment was without fault on the part of the recipient; and

2) Recovery would be contrary to equity and good conscience.

b) For purposes of subsection (a), recovery of the overpayment will be considered to be against equity and good conscience if:

1) It would cause financial hardship to the person from whom it is sought;

2) Regardless of the recipient's financial circumstances, the recipient can show that, based on the overpayment or notice that a benefit payment would be made, the recipient has:

A) relinquished a valuable right; or

B) changed positions for the worse; or

3) Recovery would be unconscionable under the circumstances.

c) If the Department has previously recovered overpayment funds from a recipient and that recipient is granted a waiver pursuant to this Section, then that recipient shall be refunded those monies.

d) A claimant's request for a waiver of recovery of an overpayment under PUA, PEUC, or the first week of benefits funded by the federal government under any State or federal unemployment program, during the time period in which the FPUC program provided a supplement to the claimant's weekly benefit amount, and for which the FPUC supplemental amount is included in the overpayment amount, shall be treated as a request to waive recovery of the FPUC overpayment as well as recovery of the overpayment based on the PUA or PEUC programs, or first week of benefits funded by the federal government under any State or federal unemployment program. The determination or decision shall set forth the findings for allowing or denying waiver of recovery of the overpayment based on the PUA or PEUC programs, or the first week of benefits funded by the federal government and the FPUC overpayment separately, including the reason for the determination or decision, and when waiver is allowed, the time period of the waiver and the amount waived.

EXAMPLE: A claimant files a request for waiver and provides related information to waive a PUA overpayment from the week beginning June 7, 2020 through the week ending August 15, 2020. In this case, the FPUC program provided a $600 supplement to the claimant's weekly benefit amount for weeks between June 7, 2020 through the week ending July 25, 2020, and the FPUC supplements are included

as part of the overpayment. The adjudicator determines that the claimant's request meets the criteria for a waiver of both PUA and FPUC, and states in the determination: the reasons for the waivers; that a waiver of the PUA overpayment is granted from the week beginning June 7, 2020 through the week ending August 15, 2020; that the FPUC waiver is granted from the week beginning June 7, 2020 through the week ending July 25, 2020; and the amount waived for each program.

e) When a claimant requests a waiver of recovery of an FPUC overpayment that supplemented a weekly benefit amount of an underlying unemployment program other than PUA and PEUC, the determination for waiver of recovery of the FPUC amount shall be made as provided by this Section. However, the determination shall indicate that waiver of recovery of the overpayment of benefits paid pursuant to the underlying unemployment program (other than PUA or PEUC) is not authorized by law and is denied.

f) When a claimant requests a waiver of recovery of an overpayment of the first week of benefits funded by the federal government under any State or federal unemployment program, the determination for waiver of recovery of the overpayment of that first week of benefits shall be made as provided in this Section. However, the determination shall indicate that waiver of recovery of the overpayment of benefits paid after the first week pursuant to the underlying unemployment program (other than PUA or PEUC) is not authorized by law and is denied.

g) A determination by an adjudicator for a waiver of recovery of a PUA, FPUC, PEUC, or MEUC overpayment, or an overpayment for the first week of benefits funded by the federal government under any State or federal unemployment program, overpayment may be based on the claimant's interview or written responses contained in a request form or questionnaire generated by the Department. An interview need not be conducted unless the adjudicator determines that more information is needed to make the determination.

h) A determination on a claimant's request for a waiver of recovery of a PUA, FPUC, PEUC, MEUC overpayment, or an overpayment for the first week of benefits funded by the federal government under any State or federal unemployment program, shall be subject to reconsideration and appeal as set forth in Sections 703, 800, 801, and 803 of the Unemployment Insurance Act [820 ILCS 405].

i) Notwithstanding the provisions of this Section, based upon authority provided by the U.S. Department of Labor the Department will waive recovery of the following overpayments under a single set of facts ("blanket waiver") without a claimant requesting a waiver:

    1) When an individual is eligible for payment under an unemployment benefit program for a given week, but through no fault of the individual that individual was paid incorrectly under either the PUA or PEUC program at a higher weekly benefit amount (WBA); or

    2) Specific to PUA, when, through no fault of the individual that individual was paid a minimum WBA higher than the minimum WBA set by federal law and U.S. Department of Labor guidance.

(Source: Added at 45 Ill. Reg. 8310, effective June 23, 2021)

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Section 2835.72 Waiver of Recovery of Overpayments Under Lost Wages Assistance (LWA) Program

a) The Department will waive recovery of any overpayment under the Lost Wages Assistance (LWA) Program paid to a recipient if the Department determines that:

1) The overpayment was without fault on the part of the recipient; and

2) Recovery would be contrary to equity and good conscience.

b) For purposes of subsection (a), recovery of the overpayment will be considered to be against equity and good conscience if:

1) It would cause financial hardship to the person from whom it is sought;

2) Regardless of the recipient's financial circumstances, the recipient can show that, based on the overpayment or notice that a benefit payment would be made, the recipient has:

A) relinquished a valuable right; or

B) changed positions for the worse; or

3) Recovery would be unconscionable under the circumstances.

c) For purposes of this Section, pursuant to guidance provided by the Federal Emergency Management Agency (FEMA) which oversees the LWA program, if the Department has previously recovered LWA overpayment funds from a recipient and that recipient is granted a waiver pursuant to this Section, then LWA funds shall not be used to refund that recipient those recovered monies. Additionally, there is no language authorizing the payment of such refunds in the enabling laws of unemployment insurance programs, including, but not limited to, the Illinois Unemployment Insurance Act [820 ILCS 405] and the CARES Act [P.L. 116-136].

d) When determining requests for a waiver of recovery of an overpayment of LWA benefits paid in conjunction with benefits paid under PUA, PEUC, or the first week of benefits funded by the federal government under any State or federal unemployment program:

1) If a claimant requests a waiver of recovery of an overpayment under PUA, PEUC, or the first week of federally-funded benefits under any State or federal unemployment program (see Section 2835.70), it will also be considered to be a request to waive recovery of an LWA overpayment if the overpayment occurred while the LWA program supplemented the claimant's weekly benefit amount and the payment under LWA has also been determined to be an overpayment. The Department's determination or decision regarding the request for a waiver will list the findings for allowing or denying waiver of recovery of multiple overpayments separately according to the program under which the benefits were paid. The Department's determination or decision will include the reason for the determination or decision, and when waiver is allowed, the time period of the waiver, and the amount waived.

2) EXAMPLE: A claimant files a request and provides supporting information for a waiver of recovery of a PUA overpayment covering the period from the week beginning August 16, 2020 through the

week ending September 12, 2020. In this case, the LWA program provided a $300 supplement to the claimant's weekly benefit amount for the weeks between August 16, 2020 and September 5, 2020, and the LWA supplements have been determined to be an overpayment. The adjudicator determines that the claimant's request meets the criteria for a waiver of recovery of both PUA and LWA overpayments, and states in the determination:

A) the reasons for the waivers;

B) that a waiver of recovery of the PUA overpayment is granted for the period from the week beginning August 16, 2020 through the week ending September 12, 2020;

C) that a waiver of recovery of the LWA overpayment is granted for the period from the week beginning August 16, 2020 through the week ending September 5, 2020; and

D) the amount waived for each program.

3) The standard for allowing the request for waiver of recovery of the overpayment attributable to payments under PUA, PEUC, or the first week of benefits funded by the federal government under any State or federal unemployment program is set forth in Section 2835.70.

4) The standard for allowing the request for waiver of recovery of the overpayment attributable to payments under LWA is set forth in this Section.

5) The provisions of Section 2835.70(g) relating to an adjudicator's determination on a claimant's request for a waiver of recovery of an overpayment under PUA, FPUC, PEUC, MEUC, or the first week of benefits funded by the federal government under any State or federal unemployment program also apply to a request for waiver of recovery of an overpayment of LWA benefits made in conjunction with benefits paid under one or more of those programs.

6) The provisions of Section 2835.70(h) relating to the reconsideration and appeal of an adjudicator's determination on a claimant’s request for a waiver of recovery of an overpayment under PUA, FPUC, PEUC, MEUC, or the first week of benefits funded by the federal government under any State or federal unemployment program also apply to a request for waiver of recovery of an overpayment of LWA benefits made in conjunction with benefits paid under one or more of those programs.

e) When determining requests for a waiver of recovery of an overpayment of LWA benefits paid in conjunction with the payment of non-federally funded regular or extended unemployment insurance benefits:

1) If a claimant requests a waiver of recovery of an overpayment of non-federally funded regular or extended unemployment benefits (see Section 2835.67), it will also be considered to be a request to waive recovery of an LWA overpayment if the overpayment occurred while the LWA program supplemented the claimant's weekly benefit amount and the payment under LWA has also been determined to be an overpayment. The Department's determination or decision regarding the request for a waiver will list the findings for allowing or denying waiver of recovery of multiple overpayments separately according to the program under which the benefits were paid. The Department's determination or decision will include the reason for the determination or decision, and when waiver is allowed, the time period of the waiver, and the amount waived.

2) EXAMPLE: A claimant files a request and provides supporting information for a waiver of recovery of a regular unemployment insurance overpayment covering the period from the week beginning August 16, 2020 through the week ending September 12, 2020. In this case, the LWA program provided a $300 supplement to the claimant's weekly benefit amount for the weeks between August 16, 2020 and September 5, 2020, and the LWA supplements have been determined to be an overpayment. The adjudicator determines that the claimant's request meets the criteria for a waiver of recovery of both overpayments, and states in the determination:

   A) the reasons for the waivers;

   B) that a waiver of recovery of the regular unemployment insurance overpayment is granted for the period from the week beginning August 16, 2020 through the week ending September 12, 2020;

   C) that a waiver of recovery of the LWA overpayment is granted for the period from the week beginning August 16, 2020 through the week ending September 5, 2020; and

   D) the amount waived for each program.

3) The standard for allowing the request for waiver of recovery of the overpayment attributable to payments of non-federally funded regular or extended unemployment insurance benefits is set forth in Section 2835.67.

4) The standard for allowing the request for waiver of recovery of the overpayment attributable to payments under LWA is set forth in this Section.

5) The provisions of Section 2835.67(h) relating to an adjudicator's determination on a claimant's request for a waiver of recovery of an overpayment of non-federally funded regular or extended unemployment insurance benefits also apply to a request for waiver of recovery of an overpayment of LWA benefits made in conjunction with benefits paid under one or more of those programs.

6) The provisions of Section 2835.67(i) relating to the reconsideration and appeal of an adjudicator's determination on a claimant's request for a waiver of recovery of an overpayment of non-federally funded regular or extended unemployment insurance benefits also apply to a request for waiver of recovery of an overpayment of LWA benefits made in conjunction with benefits paid under one or more of those programs.

(Source: Added at 46 Ill. Reg. 14206, effective July 29, 2022)

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SUBPART B: DETECTION OF OVERPAYMENTS

Section 2835.100 Cross-Matching

The Department regularly matches its benefit payments records against the Illinois Directory of New Hires and the Department's own wage record system. Where the cross-matches suggest the possibility that a claimant has worked during the period for which he or she was claiming benefits, the Department will investigate further.

Example: An individual receives regular State benefits for the week beginning January 18, 2009, continuing through April 18, 2009. In certifying to his/her continued eligibility for benefits for those weeks, the individual indicates he/she did not work during any of those weeks. A December 2009 cross-match against the Department's wage records for the first quarter of 2009 indicates the individual worked and was paid wages during that quarter. The follow-up investigation results in a determination, dated December 14, 2009, that the individual fraudulently claimed benefits for the week beginning January 18, 2009 through April 18, 2009, a total of 13 weeks, and the determination becomes legally final. The individual files a new claim for benefits, effective January 24, 2010, without yet having repaid any of the benefits he/she fraudulently obtained. The individual will not receive any benefits until he/she repays the entire amount fraudulently received. After repaying the benefits, the individual will remain ineligible for benefits under Section 901 of the Act [820 ILCS 405/901] until he/she has served 26 "penalty weeks" or December 18, 2011, whichever occurs first. A penalty week is a week in which the claimant is otherwise eligible to receive benefits but is precluded from doing so because of a fraud determination. Six penalty weeks are assessed for the first week for which a claimant fraudulently obtained benefits, and two penalty weeks are assessed for each week thereafter for which the claimant fraudulently obtained benefits, up to a maximum of 26 penalty weeks. There is no durational limit on an individual's liability to repay fraudulently obtained benefits. The individual is also subject to criminal prosecution under the State Benefits Fraud Act [720 ILCS 5/17-6] for the fraudulent receipt of benefits. A conviction for State benefits fraud can result in imprisonment for generally up to five years and a fine of generally up to $25,000. The individual is also subject to a civil lawsuit for recovery of the overpayments.

(Source: Added at 34 Ill. Reg. 8515, effective June 16, 2010)

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Section 2835.TABLE A Recoupment Matrix

Overpaid Under The Programs And Subprograms Listed Below		% Of Benefits Recoupable From Benefits Presently Payable Under Programs And Subprograms							
		STATE		UCX/ UCFE	STATE/ UCX/UCFE	FPUC	TRA	PUA	
PROGRAM/ SUBPROGRAM	TYPE OF OVER-PAYMENT	REG	EB	REG/ EB	PEUC				LENGTH OF RECOUPMENT PERIOD
STATE/ REG/EB	NONFRAUD Sec. 900A2	25	25	25	25	25	25	25	5 Years from Determination Date
STATE/ REG/EB	FRAUD	100	100	100	50	50	100	50	Indefinite
UCX/UCFE/ REG/EB	NONFRAUD Sec. 900A2	25	25	25	25	25	25	25	5 Years from Determination Date
UCX/UCFE/ REG/EB	FRAUD	100	100	100	50	50	100	50	2 Years from Determination Date
STATE/ UCX/UCFE/ PEUC	FRAUD	100	100	100	50	50	100	50	3 Years from Payment Date
STATE/ UCX/UCFE/ PEUC	NONFRAUD	25	25	25	25	50	25	50	3 Years from Payment Date
FPUC	NONFRAUD	25	25	25	25	50	25	50	3 Years from Payment Date
FPUC	FRAUD	50	50	50	50	50	50	50	3 Years from Payment Date
TRA	FRAUD	50	50	50	50	0	0-I	50	Indefinite
TRA	NONFRAUD	25	25	25	25	0	25	25	5 Years from Determination Date
PUA	NONFRAUD	25	25	25	50	50	25	25	5 Years from Determination Date
PUA	FRAUD	100	100	100	50	50	100	**	5 Years from Determination Date

KEY TO RECOUPMENT MATRIX

25	=	25% of Weekly Benefit Amount may be withheld for recoupment.
50	=	50% of Weekly Benefit Amount may be withheld for recoupment.
100	=	100% of benefits payable may be withheld for recoupment.
0-I	=	Recoupment is not allowable: a) If the week claimed ends prior to fraud determination date, claimant receives all benefits payable for the week; b) If the week claimed ends on or after fraud determination date, claimant is ineligible to receive any benefits for the week.
**	=	a) If the fraud occurred in the initial application for PUA benefits, the claimant is ineligible for any PUA benefits. b) If the fraud occurred in connection with a claim for a week of PUA benefits, the claimant is ineligible for that week and the next two weeks of PUA benefits.
UCX	=	5 USC 8521 et seq., Unemployment Compensation for Ex-Servicemen.
UCFE	=	5 USC 8501 et seq., Unemployment Compensation for Federal Employees.
EB	=	820 ILCS 405/409, Extended Benefits.
Sec. 900A2	=	820 ILCS 405/900A2.
PEUC	=	Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Section 2107, Pandemic Emergency Unemployment Compensation, Public Law 116-136.
FPUC	=	Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Section 2104, Federal Pandemic Unemployment Compensation, Public Law 116-136.
PUA	=	Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Section 2102, Pandemic Unemployment Assistance, Public Law 116-136.
TRA	=	Trade Act of 1974, as amended, 19 USC 2271-2322.

(Source: Amended at 44 Ill. Reg. 14684, effective August 27, 2020)

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SUBCHAPTER f: ELIGIBILITY FOR BENEFITS
PART 2840 CLAIMANT'S REASON FOR SEPARATION FROM WORK
SUBPART A: MISCONDUCT

Section 2840.25 What Is Meant by "Harm"

The phrase "...has harmed the employing unit or other employees" in the general definition of misconduct in Section 602A of the Act [820 ILCS 405/602A] includes, but is not limited to:

a) physical or quantitatively measurable damage or injury;

b) other damage or injury to other employees' well-being or morale or to the employer's property, operations or goodwill;

1) EXAMPLE: An individual is dissatisfied because he does not receive a raise. He confronts his supervisor and threatens to injure him, if not immediately, at some time soon. The threat itself, even in the absence of a physical assault resulting in a tangible injury, constitutes harm.

2) EXAMPLE: Without authorization, an individual enters the company president's office, opens a desk drawer and removes and photocopies trade secrets. Even if the individual decides not to pass along this information to others, the removal and photocopying of trade secrets constitutes harm.

3) EXAMPLE: An employer has a point system for evaluating tardiness and absence. When the worker exceeds the allotted number of points in a particular period, he is subject to discharge. Absences and tardiness always cause harm to the employer, even if a worker is allowed to make up the time. This is because absences and tardiness cause disruption to the general operations of any business. However, even before reaching the question of harm, the worker's reason for tardiness or absence must be reviewed in order to determine if the worker's conduct was willful.

c) damage or injury that could be reasonably foreseen to occur but for the individual being prevented from either carrying out his or her act or continuing to work;

1) EXAMPLE: At the end of her shift, a grocery store checker is stopped at the exit by a security guard. The security guard removes from the checker's purse a can of fruit cocktail and a package of sandwich cookies belonging to the employer. Because the checker was caught, the employer was not deprived of its property. Still, this constitutes harm.

2) EXAMPLE: An individual applies for a job that requires that he have a valid driver's license. On his application, he fails to disclose that his driver's license has been suspended. One year later, the employer learns of the suspension. Although the individual has not yet been involved in any accidents on the employer's premises, it is reasonable to foresee that one may occur and that the employer's insurance company would deny liability because of the individual's omission. The individual's omission on his application constitutes harm.

3) EXAMPLE: Federal law provides that a commercial carrier may not permit its vehicles to be operated by an individual if there is, within the individual's system, the presence of unlawful, controlled substances beyond a particular level. The presence of such a substance during working hours within the system of a commercial driver employed by the carrier constitutes harm to the carrier. To continue to employ the individual as a driver would result in the carrier's violating

federal law.

4) EXAMPLE: The individual is driving a forklift truck through the employer's warehouse at excessive speeds. It is reasonably foreseeable that this conduct could result in both injuries and property damage. Even if the conduct is stopped before injuries or damage occur, there is still harm to the employer.

d) It should be noted that harm is only one element of the definition of misconduct and that all of the elements set forth in the Act must be analyzed before a finding of misconduct can be made.

(Source: Amended at 43 Ill. Reg. 6517, effective May 14, 2019)

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SUBPART B: VOLUNTARY LEAVING

Section 2840.101 General Principles for Interpreting Section 601 of the Act [820 ILCS 405/601]

a) For an individual's separation from work to be a voluntary leaving, the individual must have the option to remain employed by the employing unit. The separation is a discharge if the individual does not have the option to remain employed by the employing unit. Notwithstanding any other provision to the contrary, when obtaining or maintaining a "tool of the trade" necessary to perform a job, including but not limited to an occupational or other license required by federal or State law, is within an individual's control, a work separation that results from the individual's failure to obtain or maintain the tool of the trade is a voluntary leaving. An individual who is allowed to resign in lieu of discharge is considered as having been discharged.

1) Example: The individual is told that he/she will be discharged because of his/her poor attendance. However, in order to avoid having a discharge on his/her record, he/she is allowed to submit a resignation. This separation is not a voluntary leaving because the individual does not have the option to remain employed.

2) Example: The employing unit tells the individual that his/her position on the second shift has been eliminated. However, a position is available to the claimant on the first shift. The individual leaves rather than accept the first shift. This is a voluntary leaving.

3) Example: An individual is involved in an automobile accident, will be unable to work until released by his/her doctor and so advises his/her employer. The employing unit advises the individual that it cannot offer him/her a leave of absence and cannot keep his/her job open. This is a discharge because the employing unit has not given the individual the option of remaining employed.

4) Example: On Day 1, upon returning home from work, an individual is advised by his/her babysitter that, effective immediately, the sitter can no longer watch the individual's two pre-school children. Before work on Day 2, the individual telephones his/her employer to advise it of the situation and says he/she may need a few days to find a new sitter. The employer indicates that he/she must come to work that day or it will consider him/her as having resigned. On Day 3, he/she telephones the employer to advise that he/she has some leads for a new sitter, but will need a few more days. He/she is advised the employer has accepted his/her resignation. The individual was discharged. By presenting the individual with the choice between keeping his/her job and ensuring his/her two pre-school children were properly attended, the employer did not provide the individual with the opportunity to remain employed.

5) Example: Upon returning home from work, an individual is advised by his/her babysitter that, effective immediately, the sitter can no longer watch the individual's two pre-school children. Before work the next day, the individual telephones his/her employer to advise it of the situation. The employer acknowledges the importance of finding a sitter with whom the individual is comfortable, indicates the company will work around his/her absence while he/she looks for a sitter and instructs him/her to telephone it at the end of two weeks if he/she still has not found a sitter. Without contacting the employer in the interim, he/she reports to work at the employer's premises one month later. He/she is advised that the employer assumed he/she was no longer interested in the job and hired a replacement, and there is no work available to him/her. The individual left work voluntarily. He/she had the option to remain in contact with his/her employer and thereby preserve the possibility of returning to work but did not avail himself/herself of that option.

6) Example: An individual's job requires that he/she maintain a valid driver's license. After learning that the individual's driver's license has been suspended because of traffic violations, the employing unit instructs the individual that it no longer needs his/her services. The separation is considered a voluntary leave. The individual failed to maintain a tool of his/her trade, in this case, a valid driver's license.

7) Example: An individual is hired with the understanding that he/she must pass a State mandated licensing test within one year of his/her date of hire. The individual takes all of the training courses available to prepare for the test but still fails it on three occasions. The individual is told that his/her services are no longer needed as a result of his/her failure to obtain the required license by the one-year deadline. The resulting separation is not a voluntary leaving because the individual made a reasonable and substantial effort to obtain the required license. Obtaining the license was not within his/her control, and he/she did not have the option to remain employed by the employing unit.

8) Example: Pursuant to the terms of the collective bargaining agreement governing labor-management relations at the individual's workplace, the payment of union dues was a condition of employment. The individual refused to pay the dues, although he/she was financially able to do so. After the individual ignored warnings from the employer that he/she needed to pay the dues, the employer indicated that it was no longer able to employ him/her. The separation was a voluntary leave. The individual had the option of remaining employed by paying the dues, which he/she had the means to do, but failed to avail himself/herself of that option.

9) Example: Rumors of a shutdown circulate within a plant, although the employer has not given any indication that it intends to close the plant or lay off any employees. After hearing the rumors, a worker at the plant quits to begin looking for work elsewhere, indicating he/she is not going to wait around to find out what happens at the plant. The separation was a voluntary leave, since the worker had the option of remaining at the plant.

10) Example: An individual becomes temporarily bed ridden after contracting the flu on a Sunday. When he/she telephones the employer the following day (Monday) to indicate that he/she is unable to go to work, the employer indicates that if he/she is not at work by the next day (Tuesday), he/she will be considered as having resigned. The individual is unable to return to work on Tuesday. When he/she calls the employer on Tuesday to indicate he/she is still unable to go to work, the employer indicates that it has accepted the individual's resignation. The individual was discharged. He/she did not have the option of remaining employed by the employer.

b) An individual has good cause for leaving work when there is a real and substantial reason that would compel a reasonable person who was genuinely desirous of remaining employed to leave work and the individual has made a reasonable effort to resolve the cause of his/her leaving, when such effort is possible.

1) Example: When hired, the individual commuted 5 miles each way to work. The employing unit then relocated its plant to a town over 150 miles from the individual's residence, causing a substantial increase in the individual's commuting costs and commuting time. As a result, the individual leaves his/her job. The individual had good cause for leaving work.

2) Example: An individual retires at the same time a coworker retires, because he/she believes work

would not be as enjoyable without the coworker. The individual does not have good cause for leaving the job.

3) Example: An individual's paychecks are repeatedly returned due to insufficient funds, despite the individual's numerous complaints to the employer. Upon having yet another paycheck returned due to insufficient funds, the individual resigns. The individual has good cause for leaving the job.

4) Example: When hired, the individual was able to walk to work from his/her home in 15 minutes. Thereafter, the employing unit relocates to a distance approximately 5 miles from the individual's home, requiring the individual to use public transportation. The commute on public transportation is approximately 45 minutes each way. The individual quits his/her job because of the increase in commuting time. The individual does not have good cause for quitting.

c) To be attributable to an individual's employing unit, his or her reason for leaving work must be within the control of the employing unit. Situations in which the reason for leaving is attributable to the employer include, but are not limited to, situations in which the employing unit has implemented a substantial change in the conditions of employment.

1) Example: The individual relocates to a town over 150 miles from the job site. Because the commute would take more than 2 hours each way, the individual resigns. The individual's reason for leaving is not attributable to the employing unit because the employing unit had no control over where the individual chose to reside.

2) Example: When hired, the individual commuted 5 miles each way to work. The employing unit then relocated its plant to a town over 150 miles from the individual's residence, causing a substantial increase in the individual's commuting costs and commuting time. As a result, the individual leaves his/her job. The reason for his/her leaving is attributable to the employing unit since the employing unit changed the conditions of employment by moving its plant to a location substantially farther from the individual's residence.

3) Example: An individual concludes he/she is not living up to his/her full potential in his/her present job and quits to return to school. The employer has made no changes in the terms or conditions of his/her employment and has not given the individual any reason to suspect any such changes are forthcoming. The individual's reason for leaving is not attributable to the employing unit.

4) Example: An individual quits his/her job to work for a different employer. The employing unit that the individual leaves has made no changes in the terms or conditions of his/her employment and has not given the individual any reason to suspect any such changes are forthcoming. The individual's reason for leaving is not attributable to the employing unit.

5) Example: The employer announces that, as a result of a loss of a major client, hourly wages will be reduced from $15 to $10, whereupon an employee quits. The employee's reason for leaving is attributable to the employer, since the reduction is a substantial change in working conditions. The employee will still have to demonstrate that there was good cause for leaving.

6) Example: An individual quits work because his/her supervisor is demeaning and abusive to him/her, but he/she has not complained to higher management about the supervisor even though the employer has a policy encouraging employees to report abusive supervisors, and higher management is not

otherwise aware of the supervisor's conduct. The individual's leaving is not attributable to his/her employer. Since higher management was not aware of the supervisor's conduct, the reason for the individual's leaving was not within the employer's control.

7) Example: An individual assigned to clean an area in the facility where he/she works objects to the odor of the cleaning fluid the employer provides and requests the employer to switch to a fluid the individual considers preferable. The employer denies the request, stating that there is no indication the fluid it uses is unsafe, and no one else has objected to the odor. The individual quits because the request is denied. The type of cleaning fluid used is within the employer's control, so the reason for quitting is attributable to the employer. However, to avoid disqualification, the individual will have to demonstrate he/she had good cause for quitting.

d) Subsection B of Section 601 of the Act [820 ILCS 405/601B] lists situations in which an individual will not be disqualified from receiving unemployment benefits even though he or she has left work voluntarily for a reason that is not necessarily attributable to his or her employer. The following provides examples of some of those situations, but is not an exhaustive list of circumstances, in which subsection B would apply:

1) Example: The individual is employed as a full time bank teller. His/her spouse develops a serious medical condition that requires constant supervision. A friend can watch the claimant's spouse each morning. The individual asks if he/she can work mornings only so that he/she can be home to watch his/her spouse during the afternoon. The employer indicates that it is unable to switch the individual to part time hours. If the claimant leaves work to care for his/her spouse, he/she is not subject to disqualification because his/her case falls within the exception provided at Section 601B(1).

2) Example: The individual works the third shift. The individual's spouse becomes ill and needs 24-hour assistance. The individual is able to obtain county services to care for the spouse during the day, but the only option for nighttime care is prohibitively expensive. The employer indicates that it is unable to move the individual to the first shift. If the individual leaves work to care for his/her spouse, he/she is not subject to disqualification because his/her case falls within the exception set forth in Section 601B(1).

3) Example: The individual is a skilled metalworker. He/she quits his/her job to start his/her own metal working business. For a few weeks, the business is quite successful, and he/she earns over his/her weekly benefit amount in each of at least two weeks. However, after a while, business falls off substantially. He/she files a claim for unemployment insurance benefits. He/she is not subject to disqualification because his/her case falls within the exception provided at Section 601B(2).

4) Example: An individual complains to his/her supervisor about persistent sexual advances by a coworker. The supervisor takes no further action believing the individual can take care of himself/herself. The advances continue causing the individual to quit his/her job. The individual is not subject to disqualification because his/her case will fall within the exception at Section 601B(4) since the employer knew of the harassment and failed to take any action.

5) Example: An individual's ex-boyfriend/girlfriend periodically waits outside his/her job site and threatens him/her when he/she arrives and leaves work. Fearing for his/her safety, he/she stops coming to work, informing the employing unit of his/her reason for leaving and providing the Department with a copy of a letter signed by the individual's social worker, indicating the individual

is receiving domestic violence services. His/her case falls within Section 601B(6).

6) Example: An individual who works nights lives with his/her 17-year-old child. His/her child's ex-boyfriend/girlfriend has been harassing the child, repeatedly following the child in public and making threatening telephone calls to the child at his/her home at night. Fearing for the child's safety, the individual quits his/her job to be home at night with the child. He/she informs the employer of his/her reason for quitting and provides the Department with a copy of the police report regarding the threatening calls. His/her case falls within Section 601B(6).

7) Example: An individual's ex-boyfriend/girlfriend periodically waits outside his/her job site and threatens him/her when he/she arrives and leaves work. Fearing for his/her safety, he/she stops coming to work. He/she informs the employer of his/her reason for leaving but fails to provide the Department with any of the evidence enumerated in Section 601B(6) as acceptable proof of domestic violence. His/her case will not fall within Section 601B(6).

8) Example: An individual lives and works in Chicago with his/her spouse. The spouse accepts a new job in Los Angeles, CA, and the individual and his/her spouse both agree they will move to Los Angeles together. The individual leaves his/her job when it is time to move to Los Angeles. The individual is not disqualified for leaving the job. It would be impractical for him/her to commute from Los Angeles to his/her job in Chicago, and his/her case, therefore, falls within Section 601B(7) of the Act.

9) Example: An individual's drive to work from Lincoln to Bloomington took about 45 minutes. The individual moved to Decatur when his/her spouse was transferred to that city. The individual quits his/her job to look for work in Decatur, although there is no reason that he/she could not have continued driving to work in Bloomington as the drive to Bloomington would only have been 15 minutes longer from Decatur. The individual's case does not fall within Section 601B(7) because commuting from Decatur to Bloomington would not be impractical.

10) Example: An individual's commute to work within the City of Chicago by bicycle took about 45 minutes. The individual and his/her spouse move to Skokie, a Chicago suburb, when his/her spouse is transferred to Buffalo Grove, another Chicago suburb. While the individual's commute time by automobile would still be about 45 minutes, the individual refuses to use an automobile even though one is available to him/her. Leaving under these circumstances would not fall within the exception in Section 601B(7) of the Act [820 ILCS 405/601B(7)] because commuting would not be impractical. Bicycling is the individual's personal preference.

(Source: Added at 34 Ill. Reg. 8520, effective June 16, 2010)

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Section 2840.125 Early Retirement Or Employment Buyout Packages

a) An individual who accepts his employer's offer of an early retirement or employment buyout package and leaves work according to the terms and conditions of the offer is ineligible under Section 601 of the Act unless, at the time the offer is accepted:

1) the individual knows or reasonably believes that, within the proximate future, his employment will be terminated by the employer under terms and conditions substantially less favorable than the terms and conditions of the offer, or

2) the individual knows or reasonably believes that his employment will continue, in the proximate future, but under terms and conditions substantially less favorable than the terms and conditions of his employment immediately prior to the offer, or

3) the individual knows that a layoff will follow if a sufficient number of employees do not accept the offer of an early retirement or employment buyout package and the individual accepts the offer to avoid the layoff of another employee.

b) The circumstances under which an individual may be found to have the reasonable belief required by subsection (a)(1) and (a)(2) above include but are not limited to circumstances in which the individual seeks but does not receive assurances from the employer that his employment will not in the proximate future be terminated under terms and conditions of the offer or that the terms and conditions of his employment will not in the proximate future become substantially less favorable than the terms and conditions immediately prior to the offer, as the case may be.

1) Example: An employer operates a plant that has consistently earned a profit. The employer offers an early retirement package. There is no indication from the employer that the offer is intended to avert layoffs and there are no rumors to that effect within the plant. An employee at the plant accepts the offer and applies for unemployment benefits after separating from the employer. These facts alone do not establish the reasonable belief required by subsection (a)(1) or (a)(2) above; the individual is ineligible under Section 601.

2) Example: An employer who operates a plant with 800 employees offers an early retirement plan on October 1 and indicates that, if by December 31 of the same year fewer than 150 employees have accepted the offer, the employer may begin laying off "nonessential" employees in no particular order of seniority, with no benefits. On October 2 of that year an employee at the plant seeks but does not receive assurances from the employer that she is considered "essential," whereupon she accepts the offer. Without other evidence to the contrary, these facts establish the reasonable belief required by subsection (a)(1) above; the individual is not ineligible under Section 601.

3) Example: An employer who operates a plant with 900 employees announces it intends to downsize by 25 percent and offers an early retirement package on October 15. Rumors circulate through the plant that, if a sufficient number of employees do not accept the offer by the end of the year, layoffs will follow, with no benefits, although the employer has made no announcement to that effect. The employer is aware of the rumors and does not take any action to dispel them. An employee seeks but does not receive assurances from the employer that he would not be laid off. Without other evidence to the contrary, if the employee accepts the offer, these facts establish the reasonable belief required by subsection (a)(1) above; the employee is not ineligible under Section 601.

4) Example: An employer operates a plant with 1,000 employees. On September 15, the employer offers an early retirement package to its most senior workers. Thereafter, rumors circulate throughout the plant that the employer is considering eliminating and restructuring jobs. In conversation with the employer, a senior employee is assured the employer has no plans to eliminate or restructure his job. However, the employer does observe that, if the next few years are as unprofitable as the current one, everybody's job could be at risk and the employer might not be able to offer early retirement packages as generous as the one now being offered. Troubled by the employer's observation, the employee accepts the offer. These facts alone are not sufficient to establish the reasonable belief required by subsection (a)(1) above; the employee is ineligible under Section 601. An employer's abstract statement of concern over what the future may bring is too speculative to establish a reasonable belief that the employee's job will be affected in the proximate future.

5) Example: An employer asks for "volunteers" to be laid off, explaining that each volunteer will receive two months of wages and extended health insurance coverage upon separation. The employer indicates that, if 250 volunteers are not found, it will lay off, with no benefits, a number of employees equal to the difference between 250 and the number of volunteers, irrespective of seniority. Any employee volunteers after seeking but not receiving assurances from the employer that he would not be laid off. Without other evidence to the contrary, these facts establish the reasonable belief required by subsection (a)(1) above; the employee is not ineligible under Section 601.

6) Example: On January 2, an employer offers an employee an early retirement package. The offer is effective through April 15 of the same year. There is no indication from the employer that the offer is intended to avert layoffs and there are no rumors to that effect within the workplace. The package would provide the employee with a greater pension than would otherwise have been available to her had she immediately retired and would provide the employee with the same medical benefits that are currently provided to her as a full time employee, including full medical insurance for the employee's sick husband. The employer indicates to the employee that, if she does not accept the offer, the employer will, as of April 16, discontinue medical insurance for her husband. These facts establish the reasonable belief required by subsection (a)(2) above; the employee is not ineligible under Section 601.

7) Example: On January 2, an employer offers an employee an early retirement package. The offer is effective through April 15 of the same year. There is no indication from the employer that the offer is intended to avert any layoffs and there are no rumors to that effect within the workplace. The package would provide the employee with a greater pension than would otherwise have been available to her had she immediately retired and would provide full medical insurance for the employee and her sick husband, even though the employer does not currently provide medical insurance for employees, retirees or the families of employees or retirees. There is no indication that the terms and conditions of the employee's employment will change if she does not accept the offer, although by not accepting the offer, she will forego any medical insurance furnished by the employer. The employee accepts the offer. These facts do not establish the reasonable belief required by subsection (a)(2) above; the employee is ineligible under Section 601.

8) Example: An employer who operates a plant with 1,000 employees asks for "volunteers" to be laid off, explaining that each volunteer will receive two months of wages and extended health insurance coverage upon separation. The employer indicates that, if 250 volunteers are not found, it will lay off, with no benefits, a number of employees equal to the difference between 250 and the number of

volunteers. An individual who, because of his seniority, knows he will not be laid off, volunteers to be laid off in place of his son, who has little seniority. According to subsection (a)(3) above, the individual is not ineligible under Section 601.

c) An individual who accepts his employer's offer of an early retirement or employment buyout package and leaves work according to the terms and conditions of the offer and is not ineligible under Section 601 of the Act may still be ineligible under other provisions of the Act.

1) Example: An employer announces it intends to downsize by 25 percent and offers an early retirement package which includes a generous pension package financed solely by the employer. Rumors circulate through the plant that, if a sufficient number of employees do not accept the offer by the end of the year, layoffs will follow, with no benefits, although the employer has made no announcement to that effect. The employer is aware of the rumors and does not take any action to dispel them. An employee seeks but does not receive assurances from the employer that he would not be laid off. Without other evidence to the contrary, if the employee accepts the offer, these facts establish the reasonable belief required by subsection (a)(1) above; the employee is not ineligible under Section 601. However, because the individual's retirement pension is financed solely by the employer, it will be 100% disqualifying income for each week for which the individual qualifies for the pension.

2) Example: An employer announces it intends to downsize by 25 percent and offers an early retirement package. Rumors circulate through the plant that, if a sufficient number of employees do not accept the offer by the end of the year, layoffs will follow, with no benefits, although the employer has made no announcement to that effect. The employer is aware of the rumors and does not take any action to dispel them. An employee seeks but does not receive assurances from the employer that he would not be laid off. Without other evidence to the contrary, if the employee accepts the offer, these facts establish the reasonable belief required by subsection (a)(1) above; the employee is not ineligible under Section 601. However, the individual decides that he will retire from the labor force and relocate to Florida. This individual will be ineligible for each week during which he is not able to, available for or actively seeking work.

(Source: Added at 17 Ill. Reg. 17929, effective October 4, 1993)

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PART 2865 CLAIMANT'S AVAILABILITY FOR WORK, ABILITY TO WORK AND ACTIVE SEARCH FOR WORK
SUBPART A: GENERAL PROVISIONS

Section 2865.1 Definitions

All other terms used in this Part shall have the meanings ascribed in Sections 200 through 247 of the Unemployment Insurance Act [820 ILCS 405], unless the context requires otherwise.

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Claimant" means a person who applies for benefits under the Act.

"Customary occupation" means the work in which the individual was last engaged or the occupation for which he or she is best qualified by training, experience and education.

"Department" means the Illinois Department of Employment Security.

"Employing unit" shall have the same meaning ascribed in Section 204 of the Act.

"Full-time work" is the number of hours a class of workers would customarily work if the employing unit had all of the work it could handle without working overtime. Except when the contrary is provided by a collective bargaining agreement or company policy, full-time work is customarily 40 hours per week. For example, 37.5 hours per week is full-time work for Illinois State employees because it is so provided by State personnel policy.

"Local office" means the office of the Department servicing claimants who live in a specific geographical area.

"Regular employing unit" is either the employing unit for which an individual expects to continue working and to work full time if business warrants it, or any employing unit for which the individual worked full time for nine consecutive weeks during the preceding 52 weeks.

"Temporary help firm" means an employing unit that hires its own employees and assigns them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.50 Union Registration in Satisfaction of Active Search Provisions

a) Upon request, a claimant will satisfy the active search for work provisions of Section 500(C) of the Act by registering for work with a union qualified under Section 2865.55.

1) A claimant who is unemployed, belongs to the job classification of workers represented by the union and reports periodically (but not less than monthly), as required by the union, to his or her local union placement service, shall meet the work search requirements of Section 500(C) of the Act.

2) Meeting the requirements set forth in subsection (a)(1) shall not relieve the claimant from satisfying all other requirements of the Act regarding eligibility for benefits, including the additional work search requirements of Section 409(K) of the Act.

b) The Agency shall maintain an updated listing of all unions qualified under Section 2865.55.

c) Any local union certified by the Director before July 1, 1986 shall continue to be certified, without further action on its part, so long as it continues to meet the requirements of Section 2865.55(a).

(Source: Amended at 35 Ill. Reg. 6154, effective March 25, 2011)

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Section 2865.55 Requirements For Union Local Certification

a) To meet the placement service requirements of Section 2865.50(a)(1), a union local must establish that:

1) It maintains a placement service which is available during all reasonable hours, and is available to Agency personnel for information regarding such workers;

2) It maintains accurate records of a claimant's original registration, referrals to work, refusal of work with reasons therefor, and records of job orders and their status; and,

3) All employers which are contractually bound to that local must fill all of their job openings by first hiring from that local's placement service. In such a situation, that local then controls referral to all the job opportunities in that designated locale in the trade or occupation, as though the users of its placement service personally visited each of these contractually bound employers.

4) In the absence of such contractual obligation, a local may still be approved upon showing that it does, as a practical matter, fill substantially all of the job openings in the designated locale.

b) If a union local fails to maintain any of the above requirements of this Section, it shall lose its certified status until such time as it requalifies under the procedures set forth in Section 2865.60.

c) After being granted certified status, such local shall submit, not more than annually, such information maintained in writing pursuant to Section 2865.55(a)(2) that will show that the union local still meets the requirements of subsection (a).

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Section 2865.60 Procedures for Approval as a Certified Union

a) Any union local may seek approval under Section 2865.55 by requesting from the local office of the Unemployment Insurance Support unit of the Department a Union Registration and Placement Questionnaire (Ben-629) that requests the information necessary to insure compliance with the requirements on placement services in Section 2865.55. The form shall be completed and returned to the Illinois Department of Employment Security, in care of Unemployment Insurance Support, at the address stated in 56 Ill. Adm. Code 2712.10.

b) If a union local is disapproved, written notice for the reasons for the disapproval shall be provided to the union local. All inquiries for supplementary information, explanations or assistance shall be directed to the Unemployment Insurance Support unit that shall:

1) Explain the basis for disapproval; and

2) Advise the union local regarding any adjustments in record keeping and activities that may be necessary to meet the standards for approval under Section 2865.55(a).

c) If a union local is approved, it shall be advised in writing and added to the listing set forth in Section 2865.50(b).

d) Since disapproval of a union local under subsection (b) does not adversely affect its rights under the Act, there is no right of administrative review within the Department under the Act. However, if an individual claimant is denied benefits under Section 500 of the Act, the individual, in his or her appeal under Section 800 of the Act may raise the wrongful disapproval of his or her union local as an issue in an appeal.

(Source: Amended at 49 Ill. Reg. 11169, effective August 20, 2025)

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SUBPART B: REGULAR BENEFITS

Section 2865.100 Work Search Requirements for Regular Unemployment Insurance Benefits

a) Unless otherwise instructed, the claimant must establish that he or she is able to work, available for work and actively seeking work during each week for which he or she is claiming benefits.

1) The claimant must register with the Illinois Employment Service unless otherwise instructed by the local office for one of the following reasons:

A) The claimant's unemployment is due to a labor dispute at his or her last employing unit even if the claimant is not involved in the dispute;

B) The claimant's unemployment is due to a temporary lay-off not exceeding 10 weeks in duration;

C) The claimant is a member of a labor union whose placement service has been certified by the Department under this Part;

D) The claimant is still attached to a regular job but he or she is only partially employed due to a temporary reduction in hours;

E) The claimant is a seasonal worker who is between seasons and has a reasonable expectation of returning to the same job in the next succeeding season. For example, park, golf course and landscape workers would fall within this subsection (a)(1)(E) during a winter shutdown;

F) The claimant is an academic worker, such as a teacher or school administrator, or a non-academic employee, such as a food service worker or school bus driver, who is seeking work at an educational institution or for a company that contracts with an educational institution during a period between academic years or terms;

G) The claimant is a construction worker seeking construction work, whether or not he or she belongs to a union that operates a hiring hall defined in Section 2865.50;

H) The claimant is enrolled and participating in training, whether or not that training is approved under Section 500C5 of the Act;

I) The claimant is a resident of a state that borders Illinois and has filed a claim in this State;

J) The Department determines that, based on local labor market information, registration with the Illinois Employment Service would not increase the likelihood of the claimant's return to work; or

K) The claimant's unemployment is due to a temporary lay-off resulting from a temporary closing attributable to the COVID-19 virus.

2) The claimant must show that he or she is conducting a thorough, active and reasonable search for appropriate work on his or her own by keeping records of what he or she is doing to find work, including:

A) The names and addresses of the employing units contacted and the names of the specific persons contacted, if possible;

B) The dates, methods and results of the contacts;

C) The types of work that the claimant has been seeking, including wages and hours requested or desired; and

D) Any other information regarding work search efforts.

b) The claimant shall provide the written records required by this Section to the Department whenever requested, under Section 2720.115, or, in the event of a Claims Adjudicator's interview, an appeal or a hearing in which work search is an issue. Even if the claimant has been denied benefits, he or she must either continue to certify by telephone (see Section 2720.112) or complete and file the Claim Certification through the internet every 2 weeks and meet the eligibility requirements of the Act for each week for which he or she expects payment upon reversal of that denial.

(Source: Amended at 44 Ill. Reg. 11787, effective July 1, 2020)

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Section 2865.105 Able to Work

a) An individual is able to work when he or she is physically and mentally capable of performing work for which he or she is otherwise qualified. An individual is considered able to work to the full extent permitted by 20 CFR 604, effective February 15, 2007, except when inconsistent with the express holding of published Illinois case law.

EXAMPLE: A claimant who had been a clerk at a retail store is responsible for a minor child who is prevented from attending school due to closures resulting from the COVID-19 virus. The claimant must stay home from work to watch his/her child until school reopens. However, the claimant is able to perform work that could be performed from the isolation of his/her home (e.g., transcribing, data entry, virtual assistant services). While the claimant has most recently worked at retail locations, he/she is able to work due to his/her ability to work at home.

b) The focus is upon the individual's condition, the employer's willingness to hire him or her is not relevant.

1) EXAMPLE: An individual is 60 years old, worked as a warehouseman for 40 years and is physically able to continue doing so. Employers' reluctance to hire him, because of his age, does not render him unable to work.

2) EXAMPLE: An individual tests positive for tuberculosis, a contagious disease, and, by law, is not permitted to continue working as a school teacher. He applies for jobs as a school teacher. It is the individual's condition, not school districts' unwillingness to hire him, that renders him unable to work. The individual would be considered able to work if he was seeking jobs that the law permitted him to perform and that he was physically and mentally capable of performing.

3) EXAMPLE: The individual has been discharged from numerous jobs because of repeated absenteeism due to habitual alcohol and drug use. When he reports to his local office, he reeks of alcohol and slurs his words. This individual will be determined to be unable to perform any type of work. It is his condition, not an employer's unwillingness to hire him, that renders him unable to work.

c) The focus is upon any work for which the individual is qualified, not limited to his or her usual or most recent job.

EXAMPLE: An individual, who is 7 months pregnant, quits her job as an assembler because the job is strenuous and requires her to be constantly on her feet. She applies for desk work as a telephone receptionist, a job for which she is qualified. She would be determined to be able to work.

d) The best evidence that an individual with a disability is able to work in a particular occupation is that he or she has actually performed the work.

EXAMPLE: An individual has cerebral palsy, which impairs his bodily functions and reduces his work output. However, he has training and experience as a computer operator and has shown that he is capable, within his physical limitations, of performing the work. He would be determined to be able to work.

(Source: Amended at 44 Ill. Reg. 11787, effective July 1, 2020)

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Section 2865.110 Available for Work

a) An individual is available for work, even if he or she imposes conditions upon the acceptance of work, unless a condition so narrows opportunities that he or she has no reasonable prospect of securing work. An individual is considered available for work to the full extent permitted by 20 CFR 604, effective February 15, 2007, except when inconsistent with the express holding of published Illinois case law.

EXAMPLE 1: An individual who lives in a remote rural area limits his availability to jobs within walking distance of his home. If few jobs for which he is qualified are located within walking distance of his home, it could be found that he has no reasonable prospect of securing the work and therefore would not be available for work.

EXAMPLE 2: A claimant who had been a clerk at a retail store is responsible for a minor child who is prevented from attending school due to closures resulting from the COVID-19 virus. The individual must stay home to watch his/her child until school reopens. However, the claimant is able to perform work that could be performed from the isolation of his/her home (e.g., transcribing, data entry, virtual assistant services) and makes himself/herself available to perform that work. While the claimant is not currently available for work at a retail location, he/she is available for work due to his/her availability for work that could be performed from home.

b) If domestic circumstances prevent an individual from working during the normal days and hours that exist in his or her occupation (or other work for which he or she is qualified), he or she is unavailable for work.

1) EXAMPLE: An individual, who was employed as a security guard, has children who require full-time care. The individual is able to obtain child care during evenings only, leaving him free to work nights only. Because there is a labor market for night-shift security guards, he would be determined to be available for work.

2) EXAMPLE: An individual and her husband obtain a divorce, and she is awarded custody of their children. She then quits her job as a hospital respiratory therapist because she is required to work rotating shifts and be on emergency call and because she wishes to spend all nights and weekends with her children. She states that she still applies for work as a respiratory therapist, but has had to eliminate from her list most hospitals because they will not guarantee day-shift work, the only time for which she will arrange child care. She would be determined to be unavailable for work.

3) EXAMPLE: When the individual is laid off from her job as a bank teller, she, in turn, lays off her babysitter, who is not needed so long as the individual is at home. She states that, if she is offered a job, she will rehire her babysitter. Despite the fact that she currently has no babysitter, this individual would be determined to be available to work.

c) If the individual demands a wage that is unreasonable and, thereby, prices himself or herself out of the labor market, he or she is unavailable for work. Whether a wage demand is unreasonable is determined by factors including, but not limited to: the individual's prior wages and qualifications, the prevailing wage, labor laws, union agreements, and the length of unemployment; generally, the individual must lower his or her wage demand the longer he or she is unemployed.

1) EXAMPLE: An individual worked for 25 years as a bookkeeper for a small but prosperous business that was eventually bought out. She last earned $600 per week. Upon re-entering the labor market, she discovers that her wage demand – inflated by her many years of service – is much greater than that most employers are willing to pay. In the early weeks of unemployment, she may seek work paying $600 per week, based upon her prior wages and her qualifications. In ensuing weeks, she must lower her wage expectations. As her unemployment approaches 26 weeks (or the time when an "extended benefits" period might begin), she must further lower her wage expectations. If, as time goes by, she adapts her wage expectations to meet market conditions, she would be determined to be available for work.

2) EXAMPLE: The individual is a union electrician. After 20 weeks of unemployment, he still insists upon the wage he was last paid, that is union scale. He explains that the union has agreements affecting a substantial percentage of the jobs in his locality and, were he to accept a job paying below union scale, he would be disciplined by being denied future job opportunities. His insistence upon union scale is not unreasonable. However, if he is seeking work in another locality, where his union is not active, his wage demand with respect to that locality is unreasonable.

3) EXAMPLE: The individual worked as a fast food counter clerk, earning $0.50 above minimum wage. During the first weeks of unemployment, he sought work paying that same wage. For the next few weeks, he sought work paying minimum wage. Even though he has now been unemployed for 25 weeks, he has not reduced his wage expectation any further. This is not unreasonable: to require him to seek work paying less than minimum wage would violate minimum wage laws.

d) If there are no work opportunities that an individual can reach from his or her home, he or she is unavailable for work. If the individual unreasonably restricts the distance or time he or she will travel to work, he is unavailable for work. Reasonableness is determined by factors including, but not limited to: where work opportunities are located, the customs of workers similarly situated (as to location or occupation), the types and costs of transportation, physical capabilities, and the length of unemployment; generally, an individual is expected to extend the area in which he or she will seek work the longer he or she is unemployed. Generally, in metropolitan areas, 1½ hours, each way, is not an unreasonable travel time.

1) EXAMPLE: An individual owns no car, and there is no public transportation near his home. He used to obtain work through a temporary help service that transported him to clients' job sites. He no longer works as a temporary. He states that he will work for any employer, provided it will furnish transportation to the job. He would be determined to be unavailable for work since the majority of employers do not furnish transportation for their employees.

2) EXAMPLE: The individual resides in a suburb 30 miles northwest of downtown Chicago. He was last employed as an attorney, working in a small practice in that suburb, where his travel time to work was 10 minutes. In the first weeks of unemployment, he unsuccessfully sought work in his community and neighboring suburbs. Although he has now been unemployed for 2 months, he still does not seek work in downtown Chicago, to which most attorneys commute, because rush hour travel time would be nearly 1½ hours each way. He would be determined to be unavailable for work, because he has not extended the area in which he will seek work, commuting to downtown Chicago is customary for workers in his occupation, and 1½ hours travel time is not unreasonable.

3) EXAMPLE: Although the individual is developmentally disabled, she is capable of working in

certain unskilled occupations. At her last job, she swept floors in a local drug store. Her father testifies that she must work within walking distance of home, because, if she rides public transportation, she becomes confused and lost. In this case, the individual's restriction upon distance to work is reasonable, provided that work opportunities continue to exist within walking distance of her home, in which case she will be determined to be available for work.

e) If an individual's personal habits are inconsistent with the type of work he or she is seeking, he or she is unavailable for work.

EXAMPLE: The individual, a punch press operator, was discharged because she would not cut her waist-length hair or wear a hair net or remove oversized rings she wore on her fingers; her hair and rings are considered safety hazards. She states that she is seeking work as a punch press operator, but that she will not work for any employer who requires her to cut her hair or wear a hair net or remove her rings. She would be determined to be unavailable for work.

f) An individual shall not be held unavailable for work on the basis of refusing to consider particular work that he or she honestly believes would violate sincere religious or moral convictions. However, an individual shall be held unavailable if his or her convictions eliminate virtually all of the labor market.

EXAMPLE: For many years, an individual was a hot dog vendor, working in sports stadiums on Saturdays and Sundays. The individual states that he will no longer work in the food service industry, nor will he work on Sunday. He explains that he has recently married and that his wife has introduced him to religion. Among the tenets of his religion are strict dietary laws, forbidding even handling of many commonplace foods; also, Sunday is prescribed as a day of rest. If it is determined that his religious convictions are sincere, he would not be held unavailable for work solely on the basis of refusing to consider food service or Sunday work, even though these may have been suitable previously. Still, he must demonstrate that he is available for other types of work at other times.

g) If the individual is self-employed, availability depends upon the nature and extent of that self-employment; whether the individual's investment of time or capital prevents him or her from accepting other work in the labor market.

EXAMPLE: The individual worked as a secretary in a real estate agency. When she was laid off, she grew depressed, until she watched a cable television show. The host explained how to buy property without making down payments and how to enhance cash-flow. It sounded so easy that she immediately rearranged the den in her house to serve as an office. In the morning, she would read newspapers and make telephone calls. She went to foreclosure sales and auctions. Most afternoons and evenings, she would inspect properties. She also applied for jobs in her usual occupation, secretary. This individual would be determined available for work, if the trier of fact finds that she had not yet made a substantial commitment to her own business. If, however, she had purchased properties, and was involved in the management of those properties to the extent that it would conflict with normal working hours, she would be determined to be unavailable for work.

h) Whether a seasonal worker is available for work during the off-season is determined by whether there is some prospect of obtaining work in his or her customary occupation. If there is no prospect of obtaining that work, the individual must seek other work for which he or she is qualified.

EXAMPLE: The individual is a golf course maintenance man. The courses at which he works are

open from April through October. He has never been employed during the off-season. On his work search record, for weeks in January, he indicates that he is seeking work in the field of lawn care and maintenance, for which there are no prospects of work. He would be determined unavailable for work.

i) Whenever an individual appears to be imposing a condition upon his or her acceptance of work, it is essential to establish whether he or she is merely expressing a preference as opposed to actually imposing a condition.

EXAMPLE: The individual last earned $7.50 per hour, the prevailing wage in her occupation. During her interview with the claims adjudicator, she states that she will accept $9.00 per hour for similar work. During the interview, the adjudicator reviews her work search record and asks what the wages were for her contacts during the period under review. The work search contacts were for work paying closer to $7.50 than $9.00. This might indicate that $9.00 was a preference, not a condition. Therefore, she would be determined to be available for work.

j) The best evidence that an individual is "available for work" is that he or she readily secures work, despite the imposition of a condition.

EXAMPLE: The individual is laid off from her job in an occupation that ordinarily provides daytime work only. She files a claim for benefits, and, on an initial questionnaire, she writes that she will work nights only, because her child care arrangements have changed. That week, she makes employer contacts for night-shift work. As a result of that work search, she readily secures work beginning the next week. She would be determined to be available for work for the prior week.

(Source: Amended at 44 Ill. Reg. 11787, effective July 1, 2020)

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Section 2865.115 Actively Seeking Work

a) An individual is actively seeking work when he or she makes an effort that is reasonably calculated to return him or her to the labor force. Reasonableness is determined by factors including, but not limited to: the individual's physical and mental abilities, his or her training and experience, the employment opportunities in the area, the length of unemployment, and the nature and number of work search efforts in light of the customary means of obtaining work in the occupation.

b) An individual is not actively seeking work if he or she seeks work that is unrealistic in light of his or her physical or mental limitations.

EXAMPLE: The individual, seven months pregnant, quit her job as an assembler because it was strenuous and required her to be constantly on her feet. She applies for work at a factory, as an assembler, under conditions essentially the same as those of her last job. She would be determined to be not actively seeking work.

c) The individual is not actively seeking work if he or she seeks work that is unrealistic in light of his or her training or experience.

EXAMPLE: The individual has always wanted to be a real estate agent; this requires a license he does not possess. To the extent that he only seeks work as a real estate agent, he would be determined to be not actively seeking work.

d) Whether an individual is actively seeking work is determined in part by comparing his or her occupation with labor market conditions in the locality. In some cases, an application for work can have a continuing effect.

EXAMPLE: The individual is a waitress, just laid off by one of three restaurants in her community. During her first two weeks of unemployment, she applies for work at the other two restaurants and awaits the results of her efforts. She would be determined to be actively seeking work for that period.

e) As the period of unemployment lengthens, the individual should intensify his or her efforts to find work in his or her usual occupation, or, he or she should pursue work in another occupation for which he or she is qualified.

1) EXAMPLE: After being laid off from his job as a parking lot attendant, the individual sought similar work at other parking lots within his community, without success. As time passes, he must seek work outside his community (within reasonable commuting distance).

2) EXAMPLE: Same facts as in example above but, prior to working as a parking lot attendant, the individual worked as a short-order cook. In addition to, or instead of, seeking work as a parking lot attendant, he should seek work as a short-order cook, or other work for which he is qualified; otherwise, he would be determined to be not actively seeking work.

f) Whether or not the individual is actively seeking work is determined by the quality of his or her efforts; although the quantity of job contacts should be considered, it is not necessarily determinative of an active

search for work. The methods that the individual uses to contact employers should be examined in light of those customarily used to obtain work in the occupation.

1) EXAMPLE: The individual seeks work as a retail sales clerk. On a Monday morning, she visits a shopping mall, where she applies for work at seven stores and is rejected by each. For the rest of the week, she makes no effort to find work. This individual would be determined to be not actively seeking work, despite having made seven job contacts in one day.

2) EXAMPLE: The individual, a cash-flow specialist, last worked for a major corporation, and was directly accountable to the highest corporate officers. After being unemployed for one month, she contacts a friend who works for a company located in Woonsocket, Rhode Island. On Monday, the claimant travels to Woonsocket. On Tuesday, she begins the interviewing process, meeting the manager of human resources. On Wednesday morning, she is interviewed by a budget analyst. That evening, there is a dinner-interview with two vice presidents, who tell her they will speak with the president, then get back to her the next day or the day after. The claimant stays in Woonsocket until Friday, at which time she is told she will not be offered a job. The claimant would be determined to have been actively seeking work, despite this being her only job contact.

3) EXAMPLE: The individual states that he is currently seeking work as a day laborer or in food service. He contacts prospective employers by telephone, exclusively. Because, as a practical matter, many day laborer and food service positions are filled by persons making applications in-person, this individual would be determined to be not actively seeking work.

g) The best evidence that an individual is "actively seeking work" is that he or she readily secures work, based upon his or her efforts.

EXAMPLE: The individual last worked as assistant manager of a shoe store. During his first week of unemployment, he prepares a resume and mails 100 copies to retail establishments. The next week, he mails another 100 resumes. As a result of his mailings, and no other efforts, he readily obtains work. This individual would be determined to have been actively seeking work during the weeks under review.

h) There is a rebuttable presumption that an individual is not actively seeking work if he or she was last employed by a "temporary help firm", as defined in Section 2865.1, and the temporary help firm submits a notice of possible ineligibility (see Section 2720.130) alleging that, during the week for which he or she claimed benefits, the individual did not contact the temporary help firm for an assignment. The presumption is rebutted if the individual shows that he or she did contact the temporary help firm or that he or she had good cause for his or her failure to contact the temporary help firm for an assignment.

1) EXAMPLE: An individual completes an assignment on Friday and does not contact the temporary help firm during the next week, for which he claims benefits. The individual states that he did not contact the temporary help firm because he did not remember the firm's telephone number, even though the number was listed in the telephone book. This is not good cause. On the basis of his failure to contact the temporary help firm, he is not actively seeking work.

2) EXAMPLE: An individual completes an assignment on Monday, reports to his Local Office on Tuesday, and does not contact the temporary help firm the remainder of the week. The individual did not contact the temporary help firm because he had already accepted an assignment from the temporary help firm for the following Monday and had been told by the temporary help firm that

there were no other assignments until then. This is good cause and he is not ineligible on the basis of not contacting the temporary help firm.

3) EXAMPLE: An individual completes an assignment on Friday and does not contact the temporary help firm during the next week, for which he claims benefits. The individual did not contact the temporary help firm because his wife was hospitalized and he was solely responsible for caring for his infant daughter at home. Although this is good cause, the claimant is ineligible because he is unavailable for work (see Section 2865.110(b)).

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.120 Suitability of Work – Labor Standards

a) An individual must be able to, available for, and actively seeking "suitable" work.

b) Whether work is suitable for the individual is determined by factors including, but not limited to, those set forth in Section 603 of the Act (including its references to labor standards under Section 3304(a)(5) of the Federal Unemployment Tax Act).

(Source: Added at 14 Ill. Reg. 18466, effective November 5, 1990)

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Section 2865.125 Availability for Part-Time Work Only

The requirement that a claimant shall be able and available for full-time work shall not be applied to a claimant who can prove by a preponderance of the evidence that, for him or her, only part-time work, defined in Section 2720.1, is suitable because:

a) He or she restricts his or her availability to part-time work due to:

1) Circumstances which are beyond his or her own control, such as, the advice of his or her physician that full-time work would adversely affect his or her health; or

2) The kind of work suitable to his or her skill, training or experience is available only on a part-time basis, and he or she is not reasonably qualified for available full-time work; and

b) He or she is seeking work in an area where a labor market for the part-time work applicable to him or her and suitable to his or her skill, training or experience normally exists; and

c) He or she has a reasonable possibility of securing that part-time work suitable to his or her skill, training or experience.

EXAMPLE: The claimant is the single parent of a school age child. While otherwise suitable, full-time work exists for a person with his skill, training or experience, the claimant believes that it is in the best interest of his child that he be with the child when the child is not in school. This claimant would not be eligible for benefits, for he unduly restricts his availability to part-time work based on a personal preference. The alternative of child care arrangements would allow this claimant to work full-time.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.130 Director's Approval of Training

An individual shall not be deemed unavailable for work or to have failed actively to seek work with respect to any week, because he or she is enrolled in and is in regular attendance at a training course approved for him or her by the Director (see Section 500C5 of the Act).

a) The following criteria must be satisfied in order for a training course to be approved for an individual by the Director:

1) The training course shall relate to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable work opportunities in the locality. This means that:

A) The training course must be vocational or provide the individual with skills essential for the performance of work in a specific occupation;

EXAMPLE: The Director shall not approve classes designed solely to provide an individual with a high school equivalency diploma since this would not enhance opportunities in a specific occupation. However, the Director shall approve courses of study that include some purely academic courses if that course work is secondary to the vocational aspects.

B) The course must be designed to facilitate the individual's reemployment in a reasonably expeditious manner; however, the Director shall not approve courses of study of more than one year in duration;

C) The course must focus on providing the individual with the competency necessary for securing entry level employment in the selected occupation; and

EXAMPLE: The Director shall not approve training for the purpose of allowing an individual to improve his marketability (i.e., a bookkeeper who wishes to become an accountant). If there exists a reasonable job market for bookkeepers in the individual's locality, the Director will not approve training that enhances the claimant's already marketable skills.

D) The course must consist of at least 12 hours per week of instruction from a competent and reliable training agent. This minimum of 12 hours of instruction must include contact between the student and the instructor. The contact could result from classroom training, laboratory instruction or tutoring.

2) The training course must be offered by a competent and reliable agency, educational institution or employing unit.

3) Work opportunities for which the individual is qualified by training and experience are limited or do not exist in the individual's locality.

EXAMPLE: If the individual is a trained and certified nurse's aide, the Director shall not approve training to become a registered nurse if reasonable openings exist in the individual's locality for nurse's aides, even if the individual is dissatisfied with her present occupation.

4) The individual has the qualifications and aptitude to complete the course successfully.

5) The enrollee is not a recipient nor eligible for subsistence payments or similar assistance under any public or private retraining program.

b) Notwithstanding subsection (a), a training course is approved for an individual by the Director for the purposes of Section 500C of the Act if:

1) both the training course and the individual's participation in the training course are approved under Title I of the federal Workforce Innovation and Opportunity Act (29 USC 3101 et seq.) by a One Stop Delivery System (see 20 CFR 662.100);

2) the course is part of a program authorized pursuant to the Workforce Innovation and Opportunity Act or other federal legislation establishing an employment and training program;

3) the criteria on the basis of which a One Stop Delivery System approves the course under Title I of the Workforce Innovation and Opportunity Act include criteria consistent with Section 500C5(a)(2) and (3) of the Act;

4) the criteria on the basis of which a One Stop Delivery System approves an individual's participation under Title I of the Workforce Investment Act in the course include criteria consistent with Section 500C5(a)(1) and (2) of the Act; and

5) the course is not disapproved by reason of Section 500C5(a)(5) of the Act.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.135 Availability For Work And Active Search For Work: Attendance At Training Courses

a) An individual enrolled and in regular attendance at a training course approved by the Director shall not be required to make an active job search or to be available for work. This exemption applies to individuals applying for both regular and extended benefits.

b) In addition, an individual shall not be deemed to have been unavailable for work or to have failed actively to seek work for regular or extended benefits purposes with respect to any week because he is in training approved under Section 236(a)(1) of the Federal Training Act of 1974 (19 U.S.C. 2296(a)(1)), as provided at Section 500c(6) of the Act.)

(Source: Added at 14 Ill. Reg. 18466, effective November 5, 1990)

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Section 2865.140 Regular Attendance in Approved Training

For the purposes of Section 2865.135, "in regular attendance" means that the individual has attended every scheduled session of the training course approved for him or her by the Director, and presents an attendance report from a responsible person connected with the training course. If the individual misses any scheduled class session on a particular day, the individual shall be deemed to have failed to meet the requirements of Section 500C of the Act with respect to that day.

EXAMPLE: An individual in Director approved training is scheduled to attend 2 training sessions daily from Monday through Friday until the course is completed. The individual misses one session on Wednesday because of illness. This individual shall be deemed to have failed to meet the requirements of being "in regular attendance" on Wednesday, and the individual's weekly benefit amount shall be reduced by one-fifth for that week.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.145 Ineligibility to Receive Benefits for Failure to Participate in Reemployment Services

a) Unless no longer obligated to participate under Section 2865.150(e), an individual who is referred by the Department under Section 2865.150 to reemployment services and is determined by the Claims Adjudicator to have failed without justifiable cause, as defined in subsection (c), to participate in those services shall be ineligible for benefits for the week in which he or she fails to participate in the scheduled services.

EXAMPLE: In the fourth week of his benefit year, an individual is issued his first payment of regular benefits. Notice of referral to reemployment services is sent to him during the fifth week of the benefit year, indicating he is scheduled for an orientation meeting to take place in the sixth week of the benefit year. He fails, without justifiable cause, to report to the orientation meeting. The individual will be ineligible for benefits for the sixth week of his benefit year.

b) Subsection (a) shall not apply if the individual has completed substantially similar reemployment services or he or she is participating in substantially similar services.

c) There is justifiable cause for an individual's failure to participate in reemployment services if the individual is acting as a reasonable person would act under the circumstances, taking into account the fact that the individual has been identified as likely to exhaust regular benefits and need job search assistance.

1) EXAMPLE: An individual who has been referred to reemployment services under Section 2865.150 fails to report for his scheduled orientation meeting with the reemployment service provider because the individual has a job interview scheduled for the same time. The individual has justifiable cause for failing to report for the meeting. A reasonable person in this situation could be expected to prefer the immediate job opportunity over reemployment services.

2) EXAMPLE: An individual who has been referred to reemployment services under Section 2865.150 fails to report for his scheduled reemployment service orientation meeting because he forgot about the meeting. When he becomes aware he has forgotten the meeting, he requests that the meeting be rescheduled. He fails to report for the rescheduled meeting because he again forgot about the meeting. The repeated failure to include the meeting in his schedule does not reflect the behavior of a reasonable person under the circumstances. On the basis of these facts alone, there would not be justifiable cause for the individual's failure to participate in the rescheduled meeting.

3) EXAMPLE: An individual who has been referred to reemployment services under Section 2865.150 fails to report for his scheduled reemployment service orientation meeting. However, during the week for which the meeting was scheduled, the individual is enrolled in and in regular attendance at a training course approved for him by the Director under Section 500C of the Act. A reasonable person in this situation could be expected to prefer the training program over reemployment services.

4) EXAMPLE: An individual who has been referred to reemployment services under Section 2865.150 fails to report to his scheduled reemployment service orientation meeting because he is attending GED classes at the same time. The individual has justifiable cause for failing to report for the meeting. A reasonable person in this situation could be expected to attend the GED classes.

d) The individual's obligation to participate in reemployment services to which he or she is referred under Section 2865.150 is in addition to the individual's other obligations under the Act.

e) Issues arising under this Section concerning an individual's eligibility for regular benefits shall be adjudicated and notice of those issues shall be provided in the same manner and subject to the same procedures as all the other issues concerning eligibility for regular benefits, except issues arising under Section 604 of the Act.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.150 Profiling/Referral to Reemployment Services

a) To determine the likelihood that the individual will exhaust regular benefits and will need job search assistance, the Department will profile each individual who files an initial claim for regular benefits. Each claimant profile will be based on information contained in the claimant's initial combined application for regular benefits and Employment Service registration.

1) Except as otherwise provided in subsection (a)(2), as part of the profiling process, the Department will assign each individual an exhaustion probability score that measures the likelihood that the individual will exhaust regular benefits and need job search assistance. The score will be calculated according to a statistical model developed by the Department based on criteria approved by the US Department of Labor, including industry or occupation.

2) No exhaustion probability score will be assigned an individual if he or she:

A) has not been issued his or her first payment of regular benefits by the fourth week following the week in which he or she files his or her initial claim for regular benefits;

B) satisfies the union hiring hall procedures set forth in Section 2865.50;

C) has a definite date of recall to work;

D) is unemployed as the result of a labor dispute; or

E) has left work voluntarily.

b) Each claimant who is assigned an exhaustion probability score shall be entered by the Department into a selection pool for the substate area in which the individual resides or a subdivision of that area where the substate grantee for the area has established subdivisions. The substate grantee will each week select individuals in the selection pool for referral to available reemployment services in descending order of their exhaustion probability scores. When two or more individuals in a selection pool have the same score and reemployment services are not available for all of them, the substate grantee will select for referral a number of them equal to the number of individuals for whom reemployment services are available, selecting the individuals whose initial applications for regular benefits have the earlier filing dates. When two or more individuals in a selection pool have the same score and filed their initial applications for regular benefits on the same date and reemployment services are not available for all of them, the substate grantee will randomly select for referral a number of them equal to the number of individuals for whom reemployment services are available. Whenever the availability of certain reemployment services is lawfully limited to individuals meeting specific characteristics, such as when the services are offered as part of an effort to assist in the location or expansion of an employer within the State, selections for referral to the services will be made as though individuals in the selection pool who do not meet those characteristics were not in the selection pool.

c) The reemployment services to which an individual is referred under this Section will in all instances include an orientation meeting with an entity providing reemployment services within the substate area in which the individual resides. Following the orientation meeting, reemployment services may also include: assessments; counseling; job placement services and referrals to employers; job search work

shops or job clubs; and referral to more intensive services, such as training. When an individual is initially referred by the Department to a reemployment service orientation meeting and then scheduled for reemployment services by an entity providing those services on behalf of the substate grantee that initially selected the individual for referral, the individual is considered as having been referred to the reemployment services by the Department, except when the entity indicates participation in the reemployment services is optional.

d) The Department will send each individual selected for referral to reemployment services a referral notice that will include a statement regarding the obligation to participate in reemployment services and the potential consequences of failing to participate in the services, as well as all information necessary for the individual to report to the orientation meeting.

e) The Department will remove from the selection pool any individual who, within four weeks after the week in which he or she is issued his or her first payment of regular benefits, is not sent a notice of referral to reemployment services. After being removed from the selection pool, an individual may still be referred to reemployment services, but he or she shall no longer be obligated to participate in reemployment services.

f) For the purposes of this Section, "substate area" refers to an area established by the Governor under section 312 of the Job Training Partnership Act. "Substate grantee" refers to the entity designated as the substate grantee for a substate area under that section.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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SUBPART C: EXTENDED BENEFITS

Section 2865.205 Applicability of Rules for Eligibility for Regular Benefits
Except when inconsistent with Section 409 of the Act or with this Subpart, all of the provisions of the Act and in this Subchapter f shall be applicable to eligibility for extended benefits.

a) EXAMPLE: A claim for extended benefits shall be filed in the same manner and in the same location as one would file for regular benefits.

b) EXAMPLE: If an individual, who meets all of the other requirements for receipt of extended benefits, is discharged from a job, he would be subject to the ineligibility provisions of Section 602 of the Act if it is determined that the discharge was for misconduct connected with his work.

c) EXAMPLE: An individual demands a wage that is unreasonable. He is unavailable for work under Section 2865.110(c) and would, therefore, be subject to the ineligibility provisions of Section 500C of the Act since neither is inconsistent with Section 409 of the Act. Therefore, this individual would be ineligible for extended benefits even if he meets the other requirements for receipt of extended benefits.

(Source: Amended at 43 Ill. Reg. 6522, effective May 14, 2019)

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Section 2865.210 Systematic and Sustained Search for Work

a) An individual shall be deemed to have made a systematic and sustained search for work if he or she can present the tangible evidence, described in subsection (b), to the local unemployment office that he or she was engaged in such an effort to find work during a week of unemployment.

b) The tangible evidence required by subsection (a) shall consist of, but not be limited to, all of the following:

1) A showing that the individual persistently reviewed the newspaper advertisements for work and made an effort to contact the employers placing the advertisements, on each working day during every week for which he or she is applying for extended benefits;

2) A showing that the individual actually made significant (at least five per week) personal contacts with prospective employers and applied for work on at least three working days during each week for which he or she is applying for extended benefits;

3) A showing that he or she had been frequently contacting his or her union hall for information regarding work prospects, if applicable; and

4) Registration with the State Employment Service.

c) If the failure to make a showing of sustained and systematic job search on a particular day or days by the means indicated in subsection (b) is due to attending interviews, taking tests and/or physical examinations or commuting from one place to another to search for work or engaging in any other similar undertaking, he or she shall not be determined to have failed to meet the requirements of subsection (a) for that particular day or days.

d) This Section shall not apply to weeks beginning on or after March 7, 1993 and before January 1, 1995.

e) This Section shall not apply to weeks beginning on or after May 17, 2020, with respect to individuals whose unemployment is directly impacted by COVID-19. The provisions of this subsection (e) are applicable to the extent permitted by section 4102(b) of the Families First Coronavirus Response Act (P.L. 116-127, Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA)).

(Source: Amended at 44 Ill. Reg. 17662, effective October 23, 2020)

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Section 2865.215 When an Individual's Prospects for Finding Work Shall Be Deemed To Be Good

a) An individual filing for extended benefits who has a definite date to return to work for a former employer or who has a bona fide offer of work to begin within four weeks shall be classified as having good prospects for returning to work in his or her customary occupation. This means that, should this individual refuse an offer of work, that refusal shall be adjudicated pursuant to Section 603 of the Act and Section 409K3(c)(iii) shall not apply to this individual.

b) Whether an individual's prospects of finding work in his or her customary occupation are good shall be determined at the time that he or she files his or her initial claim for extended benefits. However, the classification shall be included in any determination of refusal of work under Section 409K3(c) of the Act, and at the time, shall be subject to review.

EXAMPLE: An individual files a claim for extended benefits and reports that he will return to his former employer on March 31. He does not return to work for his former employer on March 31 and then refuses an offer of work on April 14. This refusal of work shall be adjudicated in accordance with the provisions of Section 409K3(c) because the individual's prospects of returning to his customary occupation were not good because he did not return to work for his former employer as scheduled.

c) If the claimant does not start work on the designated date, then his or her prospects of finding work in his or her customary occupation shall no longer be considered good.

d) The individual must provide the name, address and starting date of employment for any employer whom the individual claims as a basis for having his or her prospects of finding work in his or her customary occupation found to be good.

e) An individual can also show that his or her prospects of finding work in his or her customary occupation are good by showing that he or she was recently employed in his or her customary occupation, that he or she recently completed training in that occupation or that new opportunities for employment in his or her customary occupation recently became available.

f) This Section shall not apply to weeks beginning on or after March 7, 1993 and before January 1, 1995.

g) This Section shall not apply to weeks beginning on or after May 17, 2020, with respect to individuals whose unemployment is directly impacted by COVID-19. The provisions of this subsection (g) are applicable to the extent permitted by section 4102(b) of the Families First Coronavirus Response Act (P.L. 116-127, Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA)).

(Source: Amended at 44 Ill. Reg. 17662, effective October 23, 2020)

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PART 2870 SPECIAL PROGRAMS
SUBPART A: SHORT-TIME COMPENSATION PROGRAM

Section 2870.1 Definitions
All other terms used in this Part shall have the meanings ascribed in Sections 200 through 247 and Section 502 of the Unemployment Insurance Act [820 ILCS 405], unless the context requires otherwise.

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Benefit Payment Amount" means the actual unemployment insurance benefits, including any dependent allowance provided in Section 401 of the Act, paid to an employee in the affected unit.

"Claimant" means a person who applies for benefits under the Act.

"Department" means the Illinois Department of Employment Security.

"DA = Dependent Allowance" means the amount of any dependent child or dependent spouse allowance which an individual may be eligible to receive under Section 401 of the Act.

"Director" means the Director of the Illinois Department of Employment Security.

"Employing unit" has the same meaning ascribed in Section 204 of the Act.

"Full-time work" is the number of hours a class of workers would customarily work if the employing unit had all of the work it could handle without working overtime. Except when the contrary is provided by a collective bargaining agreement or company policy, full-time work is customarily 40 hours per week. For example, 37.5 hours per week is the normal, full-time work for Illinois State employees under gubernatorial authority by State personnel policy.

"NH = Normal Hours" means the normal hours employees in the affected unit work each week. The maximum value allowed is 40 hours per week.

"OH = Other Hours" means the total number of hours the employee in the affected unit worked for an employing unit or units other than hours worked under the short-time compensation (STC) plan.

"PH = Plan Hours" means the reduced hours that employees in the affected unit will work each week during the duration of the STC plan.

"STC Deduction" means the percentage value calculated using the claimant's WBA (defined below) and the WBAPA (defined below).

"TH = Total Hours" means the total sum of plan hours (PH) and other hours (OH).

"WBA = Weekly Benefit Amount" means an employee in the affected unit's weekly Unemployment Insurance Benefit Amount as specified on their Finding as provided in Section 701 of the Act.

"WBAPA = Weekly Benefit Amount Percentage Allowed" means the percentage of the WBA that will be paid to a claimant under the STC plan. This value cannot be less than 20% nor more than 60%.

"WorkShare IL" is the name of the STC program in Illinois under Section 502 of the Act. Notwithstanding this designation, hereafter in this Part, the STC program established by Section 502 of the Act is referred to as "Short-Time Compensation" or "STC".

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Section 2870.5 Application for Approval of Short-Time Compensation Plan

a) In order to participate in the STC program, an employer must submit an STC plan application to the Department, and the Director must approve the plan. Employers are strongly encouraged to submit the application electronically via the Department's STC e-service portal located at WorkShare.ides.illinois.gov. Filing an application can also be accomplished by calling 217-558-8150. Assistance in filing an application is also available at that number. The application will require the employer to provide information and make the certifications set forth in Section 502(C) of the Act.

b) A third-party administrator with a proper and fully executed IDES Power of Attorney on file with the Department may file an STC plan application and conduct all STC certifications and other STC business on behalf of an employer.

c) An STC plan application will not be accepted by the Department if an employer fails to affirm the certifications as required by Section 502 of Act and contained in the application.

d) An electronic submission of the STC plan application must be signed using an electronic signature in lieu of a written signature by clicking the "I Agree" check box beneath the certification statements prior to submission of the STC application. Electronic submission of the STC plan application has the same legal effect as a signature on a paper document.

e) When the employer's STC plan application containing the required information and employer certifications is complete, signed, and submitted, the Director must either approve or disapprove the employer's STC plan application. Approval of the STC plan application establishes the terms of the employer's STC plan.

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Section 2870.10 Withdrawal of Application for Approval of Short-Time Compensation Plan

a) At any point prior to the Director issuing a letter either approving or disapproving an STC plan, the employer may withdraw its application. The notice of withdrawal of the STC application must be sent to the Department via email to DES.WorkShare@illinois.gov.

b) Once an employer has withdrawn its STC application, it may file a new application for approval of an STC plan by complying with the provisions of Section 2870.5.

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Section 2870.15 Approval or Disapproval of a Short-Time Compensation Plan

a) The Director will have 45 days from the date of receipt of the STC plan application to approve or disapprove the employer's STC plan application. The Director's decision will be in writing and promptly communicated to the employer by sending the decision approving or disapproving the plan to the employer at its address or email account of record with the Department for purposes of STC. The Director's failure to issue a written decision within 45 days after the date of receipt of the STC plan application shall constitute a decision disapproving the plan.

b) If an employer's STC plan application provides all the required information and certifications and otherwise meets the requirements of Section 502 of the Act, the Director must approve the application.

c) If an employer's STC plan application fails to provide all the required information and certifications, the Director, through an authorized Department employee, will contact the employer to explain how the STC plan application is deficient and to allow the employer the opportunity to correct the deficiency or withdraw the STC plan application.

d) A decision disapproving the STC plan application will clearly identify the reason or reasons for the disapproval of the plan application. A decision disapproving an STC plan application is final.

e) An employer whose STC plan application for a particular affected unit has been disapproved must wait 30 days from the date of the decision of disapproval before submitting another STC plan application for that affected unit.

f) An STC plan shall not be approved if the employer is delinquent in the filing of any reports required under the Act or in the payment of contributions, payments in lieu of contributions, interest, or penalties due under this Act as of the date of the employer's STC plan application. An employer that has appealed its delinquency is still considered to be delinquent for the purposes of this Part.

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Section 2870.20 Effective Dates of a Short-Time Compensation Plan

a) All STC plans must begin on a Sunday and must end on a Saturday.

b) The decision approving the STC plan shall specify the plan's start date and expiration date.

c) The expiration date of the STC plan can be no later than the last Saturday of the 12th full calendar month after the month in which the start date of the plan occurs.

EXAMPLE: Company B's STC plan is approved with a start date of Sunday, June 6, 2021. For purposes of Company B's STC plan, June 2021 is not a full calendar month, therefore, June 2022 is the 12th full calendar month that follows the month in which the start date of the plan occurs. Company B's STC plan can expire no later than Saturday, June 25, 2022, which is the last Saturday in the 12th full calendar month after the month in which the start date of the plan occurs.

d) If an STC plan is revoked, the STC plan shall terminate on the date specified in the Director's written order of revocation.

e) An employer may terminate a STC plan at any time upon written notice to the Director, with the plan ending on the Saturday of the week that the employer designates the plan is to terminate. The Director shall promptly notify each member of the affected unit of the termination date of the plan.

f) At any time after an STC plan for a particular affected unit has expired or terminated prior to its initially established expiration date, an employer may submit an application under the provisions of Section 2870.5 to participate in another STC plan for that affected unit.

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Section 2870.25 Revocation of a Short-Time Compensation Plan

a) At any time during the duration of an approved plan, the Director may revoke approval of the plan for good cause.

b) Good cause to revoke approval of an STC plan includes the following:

1) Failure of the employer to comply with the assurances given in the plan;

EXAMPLE 1: In its application for approval of its STC plan, Company C provides assurances that it will continue to provide health and retirement benefits to its employees in the affected unit under the same terms and conditions it would have if the employees' usual hours of work had not been reduced. Despite these assurances, Company C reduces health benefits to its employees in the affected unit in proportion to its reduction of their hours of work and Company C reduces the retirement benefits that it was providing to the employees in the affected unit. Both the reduction in the health benefits and the reduction of the retirement benefits constitute a failure of the employer to comply with assurances given in the STC plan. Either of these failures to comply with an assurance given in the plan constitutes good cause for the Director to revoke approval of the plan.

EXAMPLE 2: In its application for approval of its STC plan for its sales unit, Company D provides assurances that while the STC plan is in operation, it will not hire additional full-time or part-time employees for the affected unit, and that while the STC plan is in operation, it will not transfer employees to the affected unit. Despite these assurances, while the STC plan is in operation Company D hires one full-time employee and two part-time employees for its sales unit and transfers an employee to its sales unit who was working in its telemarketing department at the time of the transfer. Both the hiring of the new employees and the transfer into the unit of another employee constitute a failure of the employer to comply with an assurance given in the STC plan. Any of these failures to comply with an assurance given in the plan constitutes good cause for the Director to revoke approval of the plan.

2) Termination of the approval of the STC plan by the collective bargaining representative of employees in the affected unit as set forth in Section 502(F) of the Act;

3) Unreasonable revision of productivity standards for the affected unit as set forth in Section 502(F) of the Act. An unreasonable revision of productivity standards for the affected unit is a revision that is not proportional to the percentage of work hours reduced under the approved STC plan.

EXAMPLE: Company E has an approved STC plan in place for its assembly unit. The plan calls for a 20% reduction in hours for the workers in the affected unit. At some point after the plan has been approved, Company E announces to the workers in its assembly unit that even though their hours of work had been reduced by 20%, the employer is setting production standards at a 10% reduction from the standards that were in place before the approval of the STC plan. In this case, with a revision of productivity standards that is not in proportion with the reduction of hours, the revision of the employer's productivity standards for the affected unit is unreasonable and shall constitute good cause for the Director to revoke approval of the STC plan.

4) *Conduct or occurrences tending to defeat the intent and effective operation of the short-time compensation plan* as set forth in Section 502(F) of the Act. The intent and effective operation of the

short-time compensation plan are to reduce unemployment, avoid layoffs, and provide employees unemployment benefits at a reduced rate.

EXAMPLE: Company F has in operation an approved STC plan for its affected warehouse unit. The plan calls for a 25% reduction in hours for the workers in the affected unit. The plan also calls for a temporary one-week shutdown between the Christmas and New Year holidays. After the workers in the affected unit return to work following the one-week shutdown, Company F lays off the two workers in the unit with the least seniority. The layoff of workers in the affected unit outside the temporary shutdown provided for in the plan defeats the intent and effective operation of the STC plan by failing to avoid layoffs, and constitutes good cause for the Director to revoke approval of the STC plan.

5) *Violation of any criteria on which approval of the plan was based* as set forth in Section 502 of the Act and certified to by the employer in the plan application (Sec. 502(F) of the Act);

EXAMPLE: Company G has in operation an approved STC plan for its affected transportation unit. The plan calls for a 25% reduction in hours for the workers in the affected unit. However, Company G reduces the workers' hours by 27%. The reduction of the workers' hours by a percentage other than that stated in the plan is a violation of a criterion on which approval of the plan was based and constitutes good cause for the Director to revoke approval of the STC plan.

6) The employer's failure to make timely filings of its wage reports while the plan is in operation;

7) The employer's failure to make timely and full payment of contributions or payments in lieu of contributions while the plan is in operation;

8) The employer's failure to provide the Department with required reports; or

9) The employer's failure to allow the Director or an authorized Department employee to monitor and evaluate the plan.

c) If the Director finds that good cause to revoke an STC plan exists, the Director, through an authorized Department employee, will contact the employer of the affected unit, and send it written notice informing it of the finding or findings of good cause to revoke the plan. The employer has seven calendar days from the issuance of such notice to contact the Department, in writing, in order to address and/or correct, the finding or findings of good cause to revoke the plan.

d) Upon receipt and consideration of the employer's timely written correspondence set forth in subsection (c), if any, the Director may issue a decision revoking the plan. The decision of the Director to revoke an STC plan shall:

1) be in writing;

2) specify the reason or reasons for the revocation and the date the revocation is effective;

3) be served upon the employer and all employees in the affected unit by sending the decision revoking the plan to the addresses or email accounts of record with the Department for purposes of STC; and

4) be final.

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Section 2870.30 Modification of a Short-Time Compensation Plan

a) When an employer seeks to modify an approved STC plan, the employer must promptly submit the request to modify the plan by sending an email to the Department at DES.WorkShare@illinois.gov. The request for modification must identify the provisions of the plan to be modified and explain why the modifications are necessary and consistent with the purposes for which the plan was approved and the certifications that the employer made in its application. The Director or authorized Department employee may request further information from the employer before a request to modify a plan is approved.

EXAMPLE 1: Company H has in operation an approved STC plan for its affected design unit. The plan calls for a 50% reduction in hours for the workers in the affected unit. While the STC plan is in operation, economic conditions for Company H improve. Company H seeks to modify its plan to provide for a 20% reduction in hours for the workers in the affected unit. This proposed change in the percentage of reduction of hours worked falls within the parameters of permitted work reduction set forth in Section 502 of the Act. Such a proposed modification to the plan requires the employer to make a request to the Director for approval of the modification of the STC plan.

EXAMPLE 2: Company J has in operation an approved STC plan for its affected packing unit. The plan calls for a 20% reduction in hours for the workers in the affected unit. While the STC plan is in operation, economic conditions for Company J get worse. Company J seeks to modify its plan to provide for a 50% reduction in hours for the workers in the affected unit. This proposed change in the percentage of reduction of hours worked falls within the parameters of permitted work reduction set forth in Section 502 of the Act. Such a proposed modification to the plan requires the employer to make a request to the Director for approval of the modification of the STC plan.

EXAMPLE 3: Company N has in operation an approved STC plan for its affected parts unit. The plan provides for a 25% reduction in hours worked for the employees in the affected unit. Due to a snowstorm in western states, there is a delay in the shipment of parts to Company N. Company N is informed by its supplier that the delay will last one week. With this information, for the one week of the delay, Company N wishes to reduce the hours of work of its employees in the affected unit by 60%, but by no more than 60%. In this situation, Company N must make a request to the Director for approval to modify the STC plan prior to the change in hours worked.

EXAMPLE 4: Company K has an approved STC plan in operation for its affected factory unit. While the plan is in operation, Company L succeeds to substantially all of the employing enterprises of Company K, which includes the factory at which all of the employees in the affected unit work. The Director receives a request to modify the approved STC plan. Under these circumstances, the Director will require the new employer (Company L) to submit a new application for approval of a plan instead of treating the correspondence as a request to modify an approved plan.

b) The voluntary separation of an affected employee from employment with the employer does not require a modification of the plan, but this separation must be reported to the Department at DES.WorkShare@illinois.gov on or before the week the departure is effective. A non-voluntary separation of an affected employee requires the employer to request a modification of the plan under this Section.

EXAMPLE 1: Company M has in operation an approved STC plan for its affected ironwork unit. Mr. A is a worker in the affected unit. While the STC plan is in operation, Mr. A finds a new job and separates

from Company M. The affected unit now has one fewer worker in it than it had at the time of the STC plan approval. Mr. A's departure from Company M does not require the employer to make a request to the Director for approval to modify the STC plan so long as the affected unit has no fewer than 2 workers, and so long as the plan proceeds in operation as it was approved. Nonetheless, the employer shall promptly notify the Director that Mr. A is no longer a participant in the plan.

EXAMPLE 2: Company M has in operation an approved STC plan for its affected ironwork unit. Ms. B is a worker in the affected unit. Company M discharges Ms. B from its employment, alleging that the discharge was for misconduct. Ms. B's discharge is a non-voluntary separation of an affected employee from the affected unit and requires a modification of the plan.

c) A modification of an STC plan may change the start date of a plan, may shorten the duration of a plan, but it may not extend the expiration date of the plan as it was approved.

d) When an employer requests a modification of an approved plan, the Director will have 30 days from the date of receipt of the request for modification of the STC plan to approve the proposed modification in whole or in part, or to disapprove the proposed modification. The Director's decision shall be final, and promptly communicated in writing to the employer to the address or email account of record with the Department for purposes of STC. The Director's failure to issue a written decision within 30 days after the date of receipt of the request to modify the plan constitutes a decision disapproving the request for modification.

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Section 2870.35 Employee's Eligibility for Short-Time Compensation Benefits

a) An individual who is an employee of an affected unit under an approved STC plan is eligible to receive STC benefits with respect to any week only if that individual:

1) Has filed a claim for STC unemployment insurance benefits, or has an existing claim for unemployment insurance benefits with a benefit year in effect at the time of the approved STC plan and has reopened that claim;

2) Has completed a one-time certification process at WorkShare.ides@illinois.gov or by calling 217-558-8150;

3) Is eligible for unemployment insurance benefits pursuant to Section 500(E) of the Act;

4) Is available for all the individual's STC plan hours or is compensated for time off of work;

EXAMPLE 1: Company P has an approved STC plan in operation for its affected factory unit. The STC plan calls for a 20% reduction in hours for the workers in the affected unit. The employer does not have paid sick leave or paid vacation leave policies. Bob, an employee in the affected factory unit, is scheduled to work 32 hours Monday through Thursday under the approved STC plan. Bob calls off work on Monday. Bob then works the remainder of his scheduled hours. Since Bob did not work all his scheduled hours or receive compensation for the 8 hours he did not work on Monday, Bob is not eligible for STC benefits that week.

EXAMPLE 2: Same facts as EXAMPLE 1, except the employer has paid sick leave and paid vacation leave policies. When Bob calls off work that Monday he requests and receives 8 hours of sick leave pay. Bob would be eligible for STC benefits that week because the 8 hours of sick leave compensation is considered hours worked.

EXAMPLE 3: Company Q has an approved STC plan in operation for its affected billing unit. The STC plan calls for a 20% reduction in hours for the workers in the affected unit. The employer's policies provide for paid holidays. Jennifer, an employee in the affected unit, is scheduled to work 32 hours Monday through Thursday under the approved STC plan. Friday is a paid holiday and Jennifer receives 8 hours' holiday pay. Since compensated hours are considered hours worked, Jennifer would not be eligible for STC benefits that week because the paid holiday puts the reduction in Jennifer's regular work hours below 20% provided for in the STC plan.

EXAMPLE 4: Company R has an approved STC plan in operation for its affected shipping unit. The STC plan calls for a 20% reduction in hours for the workers in the affected unit. The employer's policies do not provide for paid holidays. John, an employee in the affected unit, is scheduled to work 32 hours Monday through Thursday under the approved STC plan. Friday is a holiday and John is not scheduled to work. John would be eligible for the STC benefits that week because the holiday does not affect the reduction in John's regular work hours below 20% provided for in the STC plan.

EXAMPLE 5: Company S has an approved STC plan in operation for its affected factory unit. The STC plan calls for a 40% reduction in hours for the workers in the affected unit. The employer's policies provide for paid holidays. Elizabeth, an employee in the affected factory unit, is scheduled to work 24 hours Monday through Wednesday under the approved STC plan. Thursday is a holiday

and Elizabeth is not scheduled to work but is paid 8 hours of holiday pay. Elizabeth would be eligible for the STC benefits that week because the combination of reduced hours and holiday pay (32 hours) would amount to a 20% reduction in her regular hours and is within the parameters provided in Section 502 of the Act. However, for that week, Elizabeth's STC benefit amount would be calculated on a 20% reduction in hours, rather than on a 40% reduction in hours (see Section 2870.40).

5) Works hours during the week that fall within the reduction of hours of work provided under the STC plan; and

6) Is not otherwise disqualified for unemployment insurance benefits under the Act.

b) An employee in an affected unit under an approved STC plan whose usual weekly hours of work have been reduced is deemed unemployed in any week for which the employee works less than the normal weekly hours of work in accordance with an approved STC plan.

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Section 2870.40 Short-Time Compensation Benefits' Formulas

a) Consistent with the provisions of Section 401 of the Act pertaining to rounding both an individual's weekly benefit amount and any dependent allowance to the next higher dollar if calculations result in a weekly benefit amount or a dependent allowance in an amount that is not already a multiple of one dollar, the STC weekly benefit amount will be the product of:

1) the percentage of reduction in the individual's usual weekly hours of work; and

2) the sum of the regular weekly benefit amount for a week of total unemployment plus any applicable dependent allowance which the individual may be eligible to receive under Section 401 of the Act.

b) A week for which benefits are paid under this Part will be reported as a week of STC benefits. The formulas used to calculate an individual's STC benefit payment for a week are as follows.

1) For an individual who is not eligible for any dependent allowance under Section 401 of the Act:

Total Hours (TH) = (PH) + (OH)
WBAPA = 1 – ((TH) ÷ (NH))
STC Deduction = (WBA) × (1 – (WBAPA))
Benefit Payment Amount = ((WBA) – (STC Deduction)) or
Benefit Payment Amount = (WBA × WBAPA)

EXAMPLE 1: Bob is an employee of an affected unit under an approved STC plan, which provides for a 20% reduction in Bob's normal hours. Bob normally works 40 hours a week. Bob's hours were reduced to 32 when the employer's STC plan was approved effective June 6, 2021. Bob filed a new claim for benefits. Bob's regular unemployment weekly benefit amount is $500. Bob worked all his scheduled hours during the week ending June 12, 2021. Bob does not have a second job. Bob's STC benefit payment amount for the week ending June 12, 2021 is $100, using the formulas as shown below.

Using the formulas:

32 + 0 = 32 (TH)
1 – (32 / 40) = 1 – (.80) = .20 (WBAPA)
500 × (1 – .20) = 500 × .80 = 400 (STC Deduction)
500 – 400 = 100 (Benefit Payment Amount) or
500 × .20 = 100 (Benefit Payment Amount)
$100 (Benefit Payment Amount)

EXAMPLE 2: Mary is an employee of an affected unit under an approved STC plan, which provides for a 20% reduction in Mary's normal hours. Mary normally works 40 hours a week. Mary's hours were reduced to 32 when the employer's STC plan was approved effective June 6, 2021. Mary filed a new claim for benefits. Mary's regular unemployment weekly benefit amount is $484. Mary worked all scheduled hours during the week ending June 12, 2021. Mary does not have a second job. Mary's STC benefit payment amount for the week ending June 12, 2021 is $97, using the formulas as shown below.

Using the formulas:

32 + 0 = 32 (TH)
1 – (32 / 40) = 1 – (.80) = .20 (WBAPA)
484 × (1 – .20) = 484 × .80 = 387.20 (STC Deduction)
484 – 387.20 = 96.80 (Benefit Payment Amount) or
484 × .20 = 96.80 (Benefit Payment Amount)
$97 (Benefit Payment Amount due to rounding)

2) For an individual who is eligible for a dependent allowance under Section 401 of the Act:

Total Hours (TH) = (PH) + (OH)
WBAPA = 1 – ((TH) ÷ (NH))
STC Deduction = [(WBA) + (DA)] × (1 – (WBAPA))
Benefit Payment Amount = ([(WBA) + (DA)] – (STC Deduction)) or
Benefit Payment Amount = ([(WBA) + (DA)] × WBAPA)

EXAMPLE 1: Same facts as in EXAMPLE 1 in subsection (b)(1), except Bob is eligible for $188 in dependent child allowance. Bob's STC benefit payment amount, including dependent allowance, for the week ending June 12, 2021 is $138, using the formulas as shown below.

Using the formulas:

32 + 0 = 32 (TH)
1 – (32 / 40) = 1 – (.80) = .20 (WBAPA)
(500 + 188) × (1 – .20) = 688 × .80 = 550.40 (STC Deduction)
688 – 550.40 = 137.60 (Benefit Payment Amount) or
688 × .20 = 137.60
(Of the 137.60, 100.00 constitutes Benefit Payment Amount and 37.60 constitutes Dependent Allowance)
100 (Benefit Payment Amount due to rounding) +
38 (Dependent Allowance due to rounding) =
$138 (Benefit Payment Amount Plus Dependent Allowance)

EXAMPLE 2: Same facts as in EXAMPLE 2 in subsection (b)(1), except Mary is eligible for $181 in dependent child allowance. Mary's STC benefit payment amount, including dependent allowance, for the week ending June 12, 2021 is $134, using the formulas as shown below.

Using the formulas:

32 + 0 = 32 (TH)
1 – (32 / 40) = 1 – (.80) = .20 (WBAPA)
(484 + 181) × (1 – .20) = 665 × .80 = 532 (STC Deduction)
665 – 532 = 133 (Benefit Payment Amount) or
665 × .20 = 133
(Of the 133, 96.80 constitutes Benefit Payment Amount and 36.20 constitutes Dependent Allowance)
97 (Benefit Payment Amount due to rounding) +

37 (Dependent Allowance due to rounding) =
$134 (Benefit Payment Amount Plus Dependent Allowance)

c) An individual may be eligible for STC benefits or unemployment insurance benefits, as appropriate, except that:

1) no individual shall be eligible for both STC benefits and unemployment insurance benefits for the same week;

2) no individual shall be eligible for combined benefits (excluding any payments attributable to a dependent allowance under Section 401 of the Act) in any benefit year in an amount more than the individual's maximum benefit amount; and

3) no individual shall be paid STC benefits for more than 52 weeks under a STC plan.

d) The STC benefits paid to an individual in an affected unit (excluding any payments attributable to a dependent allowance under Section 401 of the Act) will be deducted from the maximum benefit amount established for that individual in the benefit year.

e) The following provisions apply to individuals who work for both a STC employer and another employer during weeks covered by the approved STC plan:

1) If combined hours of work in a week for both employers do not result in a reduction of at least 20% of the usual weekly hours of work with the STC employer, the individual is not eligible for benefits.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except Bob has a second job. In the week ending June 12, 2021, Bob worked all regular plan hours and an additional 4 hours for the second employer. For the week, Bob worked a total of 36 hours, consisting of 32 hours worked for the STC employer and 4 hours worked for a second employer. In total, Bob's reduction of hours worked for the week, as compared to a normal 40 hours of work for the STC employer, is 4 hours, which is a 10% reduction in the normal hours of work for the STC employer. Since Bob's reduction in total hours worked amounts to only 10% of the normal STC hours, Bob's short-time weekly benefit amount would be $0, as the employer's STC plan only allows for a 20% reduction. Bob's weekly benefit amount percentage amount (WBAPA) equaling only 10% of the normal weekly hours is lower than the 20% under the STC plan (20% is also the lowest percentage of reduction of hours worked allowed for a STC plan under Section 502 of the Act). Therefore, Bob is not eligible for STC benefits that week. See formulas below:

32 + 4 = 36 (TH)
1 – (36 / 40) = 1 – (.90) = .10 (WBAPA)
500 × (1 – .10) = 500 × .90 = 450 (STC Deduction)

2) If combined hours of work for both employers results in a reduction equal to or greater than 20% of the usual weekly hours of work for the STC employer, the STC benefit amount payable to the individual is reduced for that week and is determined by multiplying the percentage by which the combined hours of work have been reduced by the weekly benefit amount for a week of total unemployment.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except the employer's STC plan provides for a 50% reduction in Bob's normal hours. Bob works his 20 plan hours and an additional 4 hours for a second employer. Bob's weekly benefit payment amount would be $200. See formulas below.

20 + 4 = 24 (TH)
1 – (24 / 40) = 1 – (.60) = .40 (WBAPA)
500 × (1 – .40) = 500 × .60 = 300 (STC Deduction)
500 – 300 = 200 (Benefit Payment Amount) or
500 × .40 = 200 (Benefit Payment Amount)

3) If an individual worked the reduced percentage of the usual weekly hours of work for the STC employer, is available for all usual hours of work with the STC employer, and did not work any hours for the other employer either because of the lack of work with that employer or because the individual is excused from work with the other employer, the individual is eligible for STC benefits for that week.

EXAMPLE: With the same facts as in EXAMPLE 1 in subsection (b)(1), Bob's weekly benefit payment amount would be $100.

32 + 0 = 32 (TH)
1 – (32 / 40) = 1 – (.80) = .20 (WBAPA)
500 × (1 – .20) = 500 × .80 = 400 (STC Deduction)
500 – 400 = 100 (Benefit Payment Amount) or
500 × .20 = 100 (Benefit Payment Amount)

4) An individual who is not provided any work during a week by the STC employer, or any other employer, and who is otherwise eligible for unemployment insurance, is eligible for the amount of regular unemployment insurance benefits plus any dependent allowance for which that individual may be eligible.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except that the STC employer shut down for a week of inventory and maintenance and Bob did not work any STC plan hours, nor did Bob work for another employer. Since the reduction in Bob's hours is more than the 60% allowed under Section 502 of the Act, Bob would not be eligible for any STC benefits. However, Bob would be entitled to regular unemployment insurance benefits, provided he is otherwise eligible.

5) An individual who is not provided any work by the STC employer during a week, but who works for another employer and is otherwise eligible may be paid unemployment insurance for that week subject to the disqualifying income and other provisions applicable to claims for regular unemployment insurance.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except that the STC employer shut down for a week of inventory and maintenance and Bob did not work any STC plan hours. Bob did, however, work 10 hours for another employer and earned $400 in gross income in the week ending June 12, 2021. Since the reduction in Bob's STC plan hours is more than the 60% allowed under Section 502 of the Act, Bob would not be eligible for any STC benefits. However, Bob could be

eligible for reduced regular unemployment insurance benefits under the provisions of Section 402 of the Act.

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Section 2870.45 Overpayments of Short-Time Compensation Benefits

a) Overpayments of unemployment insurance benefits under the Act may be recovered from an individual receiving STC benefits in the manner provided under Sections 900 and 901 of the Act (see Section 2835.TABLE A).

b) Overpayments of benefits paid under an STC plan may be recovered from an individual receiving unemployment insurance benefits under the Act in the manner provided under Sections 900 and 901 of the Act (see Section 2835.TABLE A).

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Section 2870.50 Coordination of Short-Time Compensation Benefits with Extended Benefits

a) Any STC benefit received by an individual is considered to be "regular compensation" as the term is used under Federal-State Extended Unemployment Compensation Act of 1970 (PL 91-373; codified in note to 26 USC 3304).

b) An individual who has received all of the STC or combined STC and regular unemployment insurance benefits that are available in a benefit year shall be an "exhaustee" for purposes of extended benefits under the provisions of Section 409 of the Act.

c) Extended benefits paid to a participant in a STC plan are to be charged or noncharged to an employer who is subject to the payment of contributions, and attributed or non-attributed to an employer making payments in lieu of contributions, in the same manner and to the same extent as extended benefits paid to an exhaustee of regular unemployment insurance.

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PART 2875 SUPPLEMENTAL FEDERAL BENEFITS (REPEALED)

(SOURCE: Repealed at 15 Ill. Reg. 10414, effective June 27, 1991.)

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SUBCHAPTER g: INELIGIBILITY FOR BENEFITS
PART 2905 NONCITIZEN STATUS
SUBPART A: GENERAL PROVISIONS

Section 2905.1 Unemployment Benefits to Noncitizens

A noncitizen can establish monetary eligibility (see Section 500 of the Unemployment Insurance Act (Act) [820 ILCS 405] and 56 Ill. Adm. Code 2720.1) to receive unemployment insurance benefits only to the extent and on the basis of wages that the individual earned during the individual's base period while the individual was lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, as provided in 56 Ill. Adm. Code 2905.10 or 2905.15, as the case may be.

EXAMPLE: An individual illegally enters the United States in 2012 and begins work at that time. The individual applies for and is granted permanent residence status as of May 1, 2019. Only those wages that this individual earns on or after May 1, 2019 may be used to establish the individual's monetary eligibility for benefits.

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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Section 2905.5 Definitions

For the purposes of 56 Ill. Adm. Code 2905, the terms hereunder shall be defined as follows:

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Immigrant" is a noncitizen who has been accorded by the United States the privilege of entering the country for permanent residence and of becoming a citizen of the United States under the conditions provided in the Immigration and Nationality Act.

"Noncitizen" means any person not a citizen or national of the United States, as the word "alien" is defined in the Immigration and Nationality Act [8 U.S.C. 1101].

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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Section 2905.10 When Is A Noncitizen Lawfully Admitted For Permanent Residence

A noncitizen is considered lawfully admitted for permanent residence in the United States if the individual is given the status of an immigrant; provided, however, that the Canadians and Mexicans who are allowed to enter the United States for daily or seasonal work shall likewise be considered as lawfully admitted for permanent residence.

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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Section 2905.15 Permanent Residence Under Color of Law

a) A noncitizen is considered permanently residing in the United States under color of law if the individual's presence in this country is presumptively legal under federal law (including 8 U.S.C. 1157, 8 U.S.C. 1158, 8 U.S.C. 1182, and 8 CFR 101.2).

b) The mere fact that a particular individual, group or class of individuals is temporarily not subject to deportation does not mean that the individual or members of that group or class are permanently residing in the United States under color of law. In these circumstances, in order to establish that the individual is permanently residing in the United States under color of law, the individual or group or class member must show that the Immigration and Naturalization Service (INS) or the U.S. Citizenship and Immigration Services (USCIS) has provided written notification that the individual may remain in the United States for an indefinite period of time.

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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Section 2905.20 Evidence of Eligibility

A claimant who indicates in the claimant's application for benefits that the individual is not a citizen of the United States must produce evidence that the individual is not ineligible. The presentation of a valid U.S. Immigration and Naturalization Service (INS) Form I-151 or a valid U.S. Citizenship and Immigration Services (USCIS) Form I-551, commonly known as the "green card", or other similar documents issued by INS or USCIS will be sufficient for a finding that the noncitizen is eligible under Section 614 of the Act. Without the presentation of these documents, the burden of coming forth with evidence of eligibility is upon the noncitizen. Documents tending to show eligibility for benefits under this Section may be submitted for verification or clarification to INS or USCIS; however, benefits shall not be withheld pending such verification unless the claimant admits that the claimant is not legally in the United States or unless the documents appear to be altered.

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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Section 2905.25 Ineligibility On The Basis Of Alienage (Repealed)

(Source: Repealed at 13 Ill. Reg. 11502, effective June 29, 1989)

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Section 2905.30 Information Regarding Claimants' Status

Any data or information required under 56 Ill. Adm. Code 2905 shall be requested or utilized by the Director without regard to the ethnic, racial or linguistic characteristics of the claimant.

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Section 2905.35 Evidence Of Ineligibility Because Of Noncitizen Status

When a determination is made that a claimant is not entitled to unemployment benefits because the individual does not meet the requirements provided in Section 614 of the Unemployment Insurance Act, such determination must be supported by a preponderance of the evidence.

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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Section 2905.40 Legal Authorization to Work

In order to be eligible to receive benefits, an individual must be available to work (see Section 500C of the Act). In order to meet this availability requirement, a noncitizen must be legally authorized to work in the United States. A noncitizen without current authorization to work from Immigration and Naturalization Service (INS) or U.S. Citizenship and Immigration Services (USCIS), or who is not in a status that automatically permits the noncitizen to work, is not legally available for work and not eligible for benefits, even if the noncitizen meets the monetary eligibility requirements of Section 500E of the Act.

(Source: Amended at 48 Ill. Reg. 5973, effective April 3, 2024)

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PART 2910 ATHLETES
SUBPART A: GENERAL PROVISIONS

Section 2910.1 Ineligibility Of Professional Athletes And Ancillary Personnel During Periods Between Sports Seasons

Any individual who derives 90% or more of his total wages received from all sources, athletic or non-athletic, during his base period from participating or training or preparing to participate in sports or athletic events shall be ineligible to receive benefits, based upon his total base period wages or any portion thereof, for any week commencing during the period between the two successive sport seasons or similar periods if:

a) He is engaged in sports or athletic events as a professional athlete or ancillary personnel for wages; and

b) He performed such service in his applicable base period; and

c) He has a reasonable assurance that he will perform services in the next season after the intervening period comes to an end.

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Section 2910.5 Definitions

For the purposes of 56 Ill. Adm. Code 2910.1, the following terms shall have the meaning given hereunder:

a) "Sports" or "athletics" is an activity involving an individual or group of individuals who participate in any competitive play, game, or contest that requires either physical or mental ability, or both.

b) "Participate" shall mean taking part in sports or athletic events as an individual competitor or as a member of a team, or as a participant in the training or preparing to so participate.

c) "Sports season" is that part of the calendar year when according to the established practice or tradition of a particular sport or game, the team players or individual competitors are actively involved in participating in sports or athletic events or in training or preparing to so participate.

d) "Professional athlete"

1) "Professional athlete" is a claimant whose occupation is participating in athletic or sporting events as:

A) A regular player or team player; or

B) An alternate player or team member; or

C) An individual in training to become a regular player or team member; or

D) An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

2) A semiprofessional athlete is within the scope of the term "professional athlete" if he is paid for participating in sports or athletic events.

e) "Ancillary personnel" is a claimant who, without being a professional athlete, participates, or trains or prepares to so participate in sporting or athletic events. It includes:

1) Coaches;

2) Trainers;

3) Referees.

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Section 2910.10 Presumption Of Reasonable Assurance

A reasonable assurance that the claimant will perform services in sports or athletic events in a subsequent season is presumed to exist if:

a) He has an expressed or implied multiyear contract which extends into the subsequent sport season; or

b) He is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season, and

1) There is reason to believe that one or more employers of participants in athletic events are considering or would be desirous of employing the claimant in an athletic capacity in the subsequent sport season, and

2) He is not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

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Section 2910.15 Reasonable Assurance Not Fulfilled

When the reasonable assurance provided in 56 Ill. Adm. Code 2910.10 fails to materialize, the denial of benefits to the professional athlete or ancillary personnel is still effective until the date when it is established that the assurance no longer exists. Following this date, benefits will be paid if the individual is otherwise eligible.

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Section 2910.20 Sports Seasons And Period Between Seasons Determined

The beginning and ending dates of any sport season and the beginning and ending dates of the intervening time period between two successive sports seasons shall be determined by the Director after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending a season and any other information bearing upon such determination.

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PART 2915 ACADEMIC PERSONNEL
SUBPART A: GENERAL PROVISIONS

Section 2915.1 Definitions

All other terms in this Part shall have the meaning set forth in definitions, Section 200 through 247 of the Unemployment Insurance Act [820 ILCS 405], hereinafter referred to as "the Act".

"Act" means the Unemployment Insurance Act, [820 ILCS 405].

"Educational institution" under Section 211.1 or 211.2 of the Act has for its primary function the presentation of formal instruction and normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly conducted.

"Educational service agency" has the meaning given to it in Section 612 of the Act .

"Instructional service" is performed for an educational institution or educational service agency either on a full-time or part-time basis and consists of teaching in formal classroom or seminar situations, tutoring, or lecturing for the purpose of imparting knowledge, or counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

"Principal administrative capacity" is a service performed by individuals who are officers of the educational institution or educational service agency, and perform the duties of president, members of the board of directors, business managers, deans and associate deans, university public relations directors, comptrollers, development officers, chief librarians, registrars, superintendents or principals or others not given such official titles but actually serving in a similar principal administrative capacity. The duties performed by the individual rather than the title held determine whether or not the individual may be considered to be in a principal administrative capacity.

"Reasonable assurance" is an inference or expectation based upon a sequence of previous conduct, practice, or course of dealing, within an industry or field of service that is fairly to be regarded as establishing a common basis of understanding that the individual working in one year, term, or season, or prior to a vacation period or holiday recess may be expected, under normal conditions, to have continued employment in the next year, term, or season, after an "off-term" or "off-season" interruption, or at the conclusion of the vacation period or holiday recess.

"Research service" for an educational institution, educational service agency or educational unit consists of careful and systematic study and investigation in a field of science or knowledge, undertaken to establish facts or principles. The work performed is in a predominantly intellectual field or artistic endeavor that is varied in character and requires the constant exercise of discretion and judgment in performance. The work further requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study. It does not include individuals who provide supportive services for research, such as typists and clerks.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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Section 2915.2 Services in Instructional, Research or Principal Administrative Capacity and Other Capacities

a) For purposes of Section 612 of the Act, examples of services performed in an instructional, research or principal administrative capacity include, but are not limited to, services as a teacher, school principal, assistant school principal, dean, assistant dean, researcher, guidance counselor, social worker, head school registered nurse or licensed practical nurse, tutor, sports coach, athletic director, and substitute teacher.

b) For purposes of Section 612 of the Act, examples of services that are not performed in an instructional, research or principal administrative capacity include, but are not limited to, services as a teacher's aide, primarily clerical staff, custodian, assistant or auxiliary librarian, cafeteria worker, assistant registered nurse or licensed practical nurse, groundskeeper, or school bus driver.

c) For purposes of Section 612 of the Act, if an individual's employment during an academic year or term entails performing services that are in an instructional, research or principal administrative capacity, as well as performing services that are in other than an instructional, research or principal administrative capacity, if more than 50% of the individual's services during that academic year or term are in an instructional, research or principal administrative capacity, then all of the services of the individual during that academic year or term shall be deemed to be performed in an instructional, research or principal administrative capacity; but if 50% or more of the individual's services during that academic year or term are in other than an instructional, research or principal administrative capacity, then all of the services of the individual during that academic year or term shall be deemed to be performed in other than an instructional, research or principal administrative capacity. However, if the employer reports the wages performed in an instructional, research or principal administrative capacity separately, then the foregoing shall not apply.

EXAMPLE 1: Employee X is an individual with a license to teach. Employer Z is a public school system in Illinois. For the 2019-2020 school year, Z hires X to work as a teacher's aide. During the first semester of the 2019-2020 school year, X performs all her services as a teacher's aide. During the second semester of the 2019-2020 school year, 80% of X's time and services are spent working as a teacher's aide, and 20% of X's time and services are spent working in the position of a substitute teacher, teaching one class per day. During each of the semesters of the 2019-2020 school year, since 50% or more of X's services are performed in other than an instructional, research or principal administrative capacity, then for both semesters of the 2019-2020 school year, all of X's services are deemed to be performed in other than an instructional, research or principal administrative capacity.

EXAMPLE 2: The same facts as EXAMPLE 1 except that the employer reports X's wages as a teacher separately from her wages as a teacher's aide. In this case, the provisions of Section 612 of the Act shall be applied separately for the teaching and non-teaching wages.

(Source: Added at 44 Ill. Reg. 17668, effective October 23, 2020)

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Section 2915.5 Ineligibility Between Academic Years Or Terms, Vacation Period Or Holiday Recess

a) When an individual has employment in an educational institution or educational service agency in the first of two successive academic years or terms or prior to a vacation period or holiday recess, the individual shall be ineligible to receive benefits during the intervening period between academic years or terms, or during the vacation period or holiday recess, under the conditions provided in Sections 2915.10 and 2915.15.

b) The ineligibility between academic years or terms, or during vacation periods or holiday recesses, stated in subsection (a) applies only when the claim for benefits is based on wages received from an educational institution or an educational service agency. Benefits will be paid with respect to weeks of unemployment between academic years or terms, or during vacation periods or holiday recesses, if the claimant has sufficient wages for insured work in non-educational employment during the applicable base period if the individual is otherwise eligible.

c) The ineligibility stated in subsection (a) applies to employees of an educational service agency only when their services are primarily provided at the facilities of an educational institution.

(Source: Amended at 11 Ill. Reg. 19101, effective November 4, 1987)

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Section 2915.10 Ineligibility Of Academic Personnel

a) Where the service of an individual in an educational institution described in Section 2915.1, or for an educational service agency, during the first of two successive years or academic terms, or prior to a vacation period or holiday recess is performed in any capacity, such individual shall be ineligible for benefits during the intervening period:

1) Between two successive academic years; or,

2) Between two regular terms, whether or not successive; or,

3) On paid sabbatical leave provided in the individual's contract; or,

4) During the period of an established and customary vacation period or holiday recess;

b) If there is a contract or a reasonable assurance, as defined in Section 2915.1, that the individual will perform services in any such capacity in the second of such academic years or terms, or at the conclusion of the vacation period or holiday recess, for any educational institution or educational service agency.

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Section 2915.15 Period Between Academic Years Or Terms, Vacation Period Or Holiday Recess

a) The intervening period between two academic years or terms, whether or not successive, is the time span when an individual is not required either by contract or customary practice in educational institutions or educational service agencies to perform the services assigned to him. Such period is usually defined by the beginning and end of classes.

b) The period of an established and customary vacation period or holiday recess includes Christmas break or any other religious holiday season or spring vacation when they occur during the academic year or term.

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Section 2915.20 Presumption Of Reasonable Assurance Of Continued Employment

The reasonable assurance referred to in Section 2915.10 shall be presumed if such individual has a written, verbal, or implied agreement that covers or extends into the second academic year or term, or after the vacation period or holiday recess, to perform for any educational institution or educational service agency, academic or non-academic services. Continuation of service in the second academic year or term or after the vacation period or holiday recess is implied if there has been a pattern of such continuation from one academic year or term to another or following vacation periods or holiday recesses over a number of years or when the individual has not been given a notice of termination by the educational institution or educational service agency providing employment in the first of the two academic years or terms or prior to the vacation period or holiday recess.

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Section 2915.25 Rebuttal Of The Presumption Of Reasonable Assurance Of Continued Employment
The individual employed by the educational institution or educational service agency must establish by a preponderance of the evidence that such individual no longer has a reasonable assurance of continued employment, in order to be eligible for benefits under this Part. Such evidence may include a written notice of dismissal from the employer, a written statement under oath or such other evidence which tends to show that the presumption provided in Section 2915.20 is without basis. In the event, however, that the educational institution or educational service agency files a protest to the claim and gives additional assurance that the individual will continue to be employed in the next academic year or term or following the vacation period or holiday recess, then the presumption of reasonable assurance of continued employment remains unless and until the educational institution or educational service agency either gives a definite notice of termination or does not receive such individual back to work, whichever occurs first, or until the individual presents additional evidence to rebut the employer's statement.

Example: Notices of dismissal are routinely sent out to employees at the end of the academic year or term, simply as a precaution on the chance that the budget may not be approved. The individual submits this notice in evidence when filing a claim for benefits, but the educational institution affirmatively asserts in its response to the notice that a claim for benefits has been filed that the individual still has a reasonable assurance of continued employment. Such individual shall be denied benefits because the presumption of his returning to work remains in effect.

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Section 2915.30 Date Benefit Ineligibility Ceases to Apply

a) If the individual overcomes the presumption of reasonable assurance of continued employment provided in Section 2915.20, the ineligibility to receive benefits set forth in Section 2915.10 shall cease to apply to that individual, effective with the week for which the individual filed a claim for benefits, if it has been found by the Department, in any proceeding, that, as of that week, the individual had no reasonable assurance of continued employment.

b) If the additional assurance given by the educational institution or educational service agency described in Section 2915.25 fails to result in continued employment, the presumption becomes no longer effective from the date specified by the educational institution or educational service agency in its subsequent notice of dismissal to the individual or from the date the individual was scheduled to report back to work but the educational institution or educational service agency fails to take him or her back to service, whichever occurs first. Except as provided in subsection (c), the ineligibility to receive benefits provided in Section 612 of the Act and Section 2915.10 of this Part shall cease to apply to that individual on the date the presumption is determined to have become no longer effective.

c) Notwithstanding subsections (a) and (b), if reasonable assurance fails to materialize and the individual was previously employed in a position other than that of one in an instructional, administrative or research capacity, the individual, who has filed his or her claim in accordance with 56 Ill. Adm. Code 2720.110 through 2720.125, shall be entitled to a retroactive payment of benefits if he or she is otherwise eligible for benefits.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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Section 2915.35 Benefits to Insured Workers in Educational Institutions

Benefits based on wages for services performed by an individual in the employ of an educational institution or educational service agency operated by a governmental entity or nonprofit organization provided in Sections 211.1 and 211.2 of the Act, respectively, shall be payable in the same amount, on the same terms, and subject to the same conditions, as any other benefits payable under the Act, except that the individual may be ineligible for benefits for the intervening period between academic years or terms as provided in Section 2915.5.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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Section 2915.40 Ineligibility of Employees Working in One Capacity for an Academic Employer Who Cross Over Within Years or Terms to Work in Another Capacity for the Same Type of Academic Employer

a) For the purposes of this Part, an individual can perform services for an academic employer in either or both of two capacities: professional or non-professional. "Professional" means services performed in an instructional, research, or principal administrative capacity. "Non-professional" means all other services.

b) For the purposes of this Part, there are two types of academic employers. The first type is an educational institution, as well as an institution of higher education and an institution of higher learning. The second type is an educational service agency.

c) If an individual performs services for one type of academic employer in one capacity during the period before a vacation period or holiday recess within an academic year or term, and there is a reasonable assurance that the individual will perform services in a different capacity for the same type of academic employer for the period immediately subsequent to the vacation period or holiday recess, the individual shall be ineligible for benefits under Section 612 of the Act during the vacation period or holiday recess.

EXAMPLE: If a teacher employed by an educational institution receives assurance that at the end of the Christmas holidays his employment with that educational institution will continue in January but in the capacity of a security guard rather than as a teacher, the individual has crossed over from one capacity to another and shall be ineligible for benefits under Section 612 of the Act during that period.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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Section 2915.43 Eligibility of Employees Working for an Academic Employer Who Cross Over Within an Academic Year or Term to Work for a Non-Academic Employer or for Another Type of Academic Employer

If an individual crosses over from an academic employer(see Section 2915.40(b)) a non-academic employer, or from one type of academic employer to another, following a vacation period or holiday recess within an academic year or term, the ineligibility imposed by Section 612 of the Act does not apply. This is true no matter in what capacity the individual performs services after the vacation period or holiday recess within an academic year or term for the subsequent employer.

EXAMPLE: If a teacher employed by an educational institution receives assurance that at the end of the Christmas holidays his services as a teacher will continue in January in the employ of an educational service agency, the ineligibility imposed by Section 612 of the Act does not apply because the services performed immediately subsequent to the vacation period are not performed for the same type of academic employer.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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Section 2915.45 Eligibility of Employees Working for One Type of Academic Employer Who Cross Over Between Years or Terms to Work for Another Type of Academic Employer

Whenever an individual performs services in the employ of one type of academic employer during an academic year or term and there is reasonable assurance that the individual will perform services in the employ of another type of academic employer for a subsequent academic year or term, the individual shall not be ineligible under Section 612 of the Act during the period between the two academic years or terms.

EXAMPLE: If a teacher employed by an educational institution receives assurance that at the end of the academic year his employment will continue for the next year for an educational service agency, the individual shall not be ineligible during that period under Section 612 of the Act.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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Section 2915.47 Eligibility of Employees Working in One Capacity Who Cross Over Between Years or Terms to Work in Another Capacity

Whenever an individual performs services in one capacity during an academic year or term and there is reasonable assurance that the individual will perform the services in a different capacity for a subsequent academic year or term, the individual shall not be ineligible under Section 612 of the Act during the period between the two academic years or terms.

EXAMPLE: If a typist receives assurance that at the end of the academic year his employment will continue for the next year but in the capacity of a teacher, the individual shall not be ineligible during that period under Section 612 of the Act.

(Source: Amended at 43 Ill. Reg. 6555, effective May 14, 2019)

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PART 2920 DISQUALIFYING INCOME AND REDUCED BENEFITS
SUBPART A: GENERAL PROVISIONS

Section 2920.1 Definitions

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Employer" shall have the meaning ascribed in Section 205 of the Act.

"Employing unit" shall have the same meaning as provided in Section 204 of the Act.

"Full-time work" refers to the number of hours or days a class of workers would work if the employing unit had all the business it could handle without overtime. Except when the contrary is provided by a collective bargaining agreement or company policy, full time work is customarily 40 hours per week.

"Layoff" occurs when work is no longer available for the individual for a definite or indefinite period of time, but there is no intention to permanently sever the employer-employee relationship.

"Normal workday" is a day during which work is ordinarily performed at the worker's customary place of employment.

"Pay in lieu of vacation" refers to amounts paid to an employee in addition to regular wages whenever the employee works instead of taking the period of vacation to which the individual is entitled.

"Residual payments" are amounts paid to a performer for the continued use of radio and television commercials in which he or she performed.

"Separation" refers to the situation that exists when an employee has:

Voluntarily terminated employment;

Been permanently discharged from employment by the employer; or

Been indefinitely suspended from employment by the employer on grounds other than lack of work at the place of employment.

"Services performed by an individual in self-employment" means those services that would be excluded from covered employment under Section 212 of the Act.

"Shutdown for inventory purposes" occurs whenever the employer suspends all or a unit of its operations for an announced period in order to count or to inspect the property in the employer's possession.

"Shutdown for vacation purposes" occurs whenever the employer suspends all, or a unit of, its operations for an announced period in order to grant its employees a period of rest and recreation, conduct maintenance or re-tooling operations, or for any reason except lack of business.

"Standby pay" refers to amounts paid or payable to an employee either for an employee's readiness to perform services for an employer or amounts paid or payable to an employee for the purpose of maintaining the employer-employee relationship during any work cessation not related to a labor dispute in which the individual is directly involved.

"Vacation pay" refers to amounts paid or payable to an employee for the purpose of granting him or her a period of rest and recreation. The term "vacation pay" includes what is commonly referred to as "personal holiday" pay, "earned bonus hours", and other amounts payable for the purpose of rest and recreation regardless of how they are characterized.

"Vacation pay allowance" refers to amounts paid or payable to an employee as vacation pay without regard to the period of vacation leave to which the employee is entitled. For example, an employee may be entitled to two weeks of vacation leave but be paid an allowance that is greater or less than the wages for two weeks of normal work. Thus, if any employee was entitled to receive a vacation pay allowance equal to 5% of his or her annual salary of $20,000, the employee's vacation pay allowance would be $1,000.

"Wages for less than full time work" refers to every form of remuneration for personal services, including salaries, commissions, bonuses, gratuities received from third parties that are reported as wages under Section 234 of the Act, and the reasonable money value of all remuneration in any medium other than cash received by an individual for less than full time work.

"Weekly benefit amount" means the amount defined by Section 401 of the Act.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.5 Ineligibility To Receive Benefits Due To Performing Full-Time Work Or Due To The Receipt Of Various Income Whose Sum Is Equal To Or Greater Than The Individual's Weekly Benefit Amount

a) An individual shall be ineligible for benefits with respect to any week for which the individual receives or is entitled to receive any of the following payments whose aggregate amount is equal to or exceeds such individual's weekly benefit amount:

1) Payments made during an announced shutdown for inventory or vacation purposes which are treated as wages under Section 2920.25;

2) Payments made in connection with any separation or layoff as, or in the nature of, vacation pay, vacation pay allowance, or pay in lieu of vacation treated as wages under Section 2920.30 which are made during a period designated by the employer;

3) Holiday pay treated as wages under Section 2920.35;

4) Wages for services performed by an individual for any week of less than full time work except those wages for "services performed by an individual in self-employment" as defined by Section 2920.1.

A) Example 1: An individual files for benefits after a layoff and the weekly benefit amount is $130.00. The individual is eligible to receive 3 days of vacation pay at $50.00 per day during the week in question, an amount which would be treated as wages under Section 2920.25. The individual is ineligible to receive benefits or waiting week credit under this subsection with respect to that week because the entitlement to $150.00 in vacation pay treated as wages under Section 2920.25 exceeds the weekly benefit amount.

B) Example 2: An individual files for benefits after a layoff. The weekly benefit amount is $130.00. The individual performs services which are not employment under Section 212 of the Act. Even if the individual receives or is entitled to receive payments for these services in amounts in excess of the weekly benefit amount, the individual is not ineligible for benefits under this subsection because the services performed by the individual were in self-employment and hence the remuneration received for these services does not render the individual ineligible for benefits under subsection (a)(4). The individual may, however, be ineligible under Section 500 of the Act, if he is not able to, available for, or actively seeking work.

C) Example 3: An individual files for benefits after a layoff. The weekly benefit amount is $130.00. With respect to the week in question, the individual is entitled to receive 1 day of holiday pay of $50.00 per day, an amount which would be treated as wages under Section 2920.35, and 2 days of vacation pay at $50.00 per day, an amount which would be treated as wages under Section 2920.30. The individual is ineligible to receive benefits during that week under this subsection because the entitlement to the sum of $150.00 in holiday and vacation pay exceeds the weekly benefit amount.

D) Example 4: An individual files for benefits after a layoff. The weekly benefit amount is $130.00. The individual is entitled to receive $100.00 in vacation pay treated as wages under Section 2920.30 for that week and also receives $50.00 in wages for services performed in employment during that week. The individual's services are for less than full-time work. The individual is

ineligible for benefits for that week under this subsection because the entitlement to $100.00 in vacation pay plus the receipt of $50.00 in wages for performing services for less than full-time work equals $150.00, an amount which exceeds the weekly benefit amount.

b) In addition to the ineligibility for benefits imposed by the provisions of subsection (a), an individual shall be ineligible for benefits with respect to any week in which he performs full-time work regardless of whether the amount of wages received during that week equal or exceed the weekly benefit amount because the individual is not unemployed as required by Section 239 of the Act.

Example: An individual receives $137.00 in wages for performing services in full-time work. His weekly benefit amount is $150.00. The individual is ineligible for benefits under subsection (b) even though the wages are less than his weekly benefit amount because such individual is performing full-time work. The individual would also not be eligible for reduced benefits under Sections 2920.10 and 2920.15.

c) An individual shall be ineligible for benefits with respect to any week or weeks for which such individual receives any of the following payments whose aggregate amount is equal to or exceeds his weekly benefit amount. Mere entitlement to such payments shall not render the individual ineligible under this subsection.

1) Disqualifying retirement pay under Section 2920.70.

Example: An individual receives a weekly pension of $200.00, all of which is disqualifying under Section 2920.70. The individual's weekly benefit amount is $130.00. The individual is ineligible to receive benefits under this subsection because the receipt of $200.00 in disqualifying retirement pay exceeds his weekly benefit amount.

2) Workers' compensation paid for temporary disability arising out of or in connection with employment under the laws of Illinois, of another state, or of the United States, as defined by Section 606 of the Act.

d) In addition to the ineligibility for benefits imposed by the provisions of subsections (a), (b), and (c), an individual shall be ineligible for benefits with respect to any week or weeks in which the aggregate amount of any payments treated as wages referred to in subsections (a)(1), (2) and (3), plus any of the disqualifying payments referred to in subsection (c), is equal to or exceeds such individual's weekly benefit amount.

1) Example 1: An individual receives workers' compensation payments of $60 per week for temporary disability, and the disability does not render the individual unable to or unavailable for work. The individual is also entitled to receive two days of vacation pay at $50 per day with respect to that week. The individual's vacation pay is treated as wages under Section 2920.30. The individual's weekly benefit amount is $130. This individual is ineligible for benefits under subsection (d) because the aggregate amount of the disqualifying payments for that week ($60 + $100 = $160) exceeds his weekly benefit amount.

2) Example 2: An individual receives $60.00 per week of retirement pay all of which is disqualifying under Section 2920.70 and is also entitled to receive 1 day of vacation pay at $50 per day treated as wages under Section 2920.30 with respect to that week. The individual also receives $65 in wages

for performing less than full-time work during that week. The individual's weekly benefit amount is $130. Since the aggregate of his disqualifying retirement pay and his vacation pay ($60 + $50 = $110) is less than the individual's weekly benefit amount of $130, the individual is not ineligible for benefits under this subsection. Amounts paid or payable to an individual as wages for performing services for less than full-time work referred to in subsection (a)(4) do not make the individual ineligible to receive benefits in this situation because, when added to the individual's vacation pay, they do not exceed the individual's weekly benefit amount as required by subsection (a). Rather these amounts reduce the individual's benefits in accordance with the formula given in Section 2920.10. Similarly, since the individual's receipt of $60 in retirement pay is disqualifying but is not considered wages under Section 611 of the Act, these amounts reduce the individual's benefits in accordance with the formula given in Section 2920.10, but do not make the individual entirely ineligible to receive any benefits under this subsection.

3) Example 3: An individual wins a lottery prize of $1000. Since lottery prizes are not awarded for services performed by the individual for an employer, this amount would not constitute disqualifying income under this Section.

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Section 2920.10 Reduction in Benefits Due to Receipt of Vacation Pay, Holiday Pay, Retirement Pay, and Workers' Compensation Whose Sum is Less Than the Individual's Weekly Benefit Amount

Provided that an individual is not ineligible for benefits under Section 2920.5, whenever an individual receives or is entitled to receive any vacation pay treated as wages under Section 2920.25 or 2920.30, holiday pay treated as wages under Section 2920.35 or receives any disqualifying retirement pay under Section 2920.70 or workers' compensation during a week or weeks, and the aggregate amount of those payments is less than the individual's weekly benefit amount, the individual shall be eligible to receive with respect to that week or those weeks, benefits in an amount equal to the weekly benefit amount reduced by the sum of these payments. The reduction in benefits given by this Section does not apply when the individual receives wages for less than full-time work as defined by Section 2920.5(a)(4). In those cases, the individual's eligibility and amount of reduced benefits, if any, shall be calculated in accordance with the formula in Section 2920.15.

a) EXAMPLE: An individual received $60 in disqualifying retirement pay per week. He also receives $60 in vacation pay with respect to that week. If the weekly benefit amount was $130, he would be eligible to receive $10 in reduced benefits with respect to that week.

b) EXAMPLE: Assume the situation described in EXAMPLE in subsection (a) with the exception that the individual's disqualifying retirement pay with respect to that week is $70 instead of $60. Because the sum of the individual's retirement pay and his vacation pay equals his weekly benefit amount, the individual is ineligible to receive reduced benefits under this Section because he is ineligible to receive any benefits under Section 2920.5(d).

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.15 Reduction In Benefits Due To Receipt Of Wages For Less Than Full-Time Work

a) Whenever an individual receives or is entitled to receive an amount of wages for less than full-time work as defined by Section 2920.5(a)(4) with respect to a week which is less than the individual's weekly benefit amount and does not receive any other disqualifying payment referred to by Section 2920.10, the individual shall be eligible to receive with respect to such week, benefits equal to the individual's weekly benefit amount reduced by that part of the wages for less than full-time work, if any, which are in excess of 50% of the individual's weekly benefit amount. Whenever benefits reduced under this section do not constitute a multiple of $1.00, the reduced benefit amount shall be raised to the next higher multiple of $1.00.

1) Example 1:

A)	If the individual's weekly benefit amount is	$130.00
B)	50% of that amount is	$ 65.00
C)	If the individual's wages for less than full-time work under Section 2920.5(a)(4) are	$ 86.00
D)	The amount by which the wages given in line 3 exceed 50% of the individual's weekly benefit amount given in line 2 is	$ 21.00
E)	The difference between the individual's weekly benefit amount given in line 1	$130.00
	and the amount given in line 4	$ 21.00
	is	$109.00

The amount of $109.00 represents the reduced benefits the individual is eligible to receive for that week under this subsection.

2) Example 2:

A)	If the individual's weekly benefit amount is	$130.00
B)	50% of that amount is	$ 65.00
C)	If the individual's wages for less than full-time work under Section 2920.5(a)(4) are	$ 65.00
D)	Because the individual's wages given in line 3 do not exceed 50% of the individual's weekly benefit amount given in line 2, the difference between the amount given in line 3 and the amount given in line 2 is	$ 0

E) The difference between the individual's weekly benefit
amount given in line 1 ..... $130.00
and the amount given in line 4..... $ .00
is..... $130.00

The amount of $130.00 represents the benefits which the individual is eligible to receive for that week under this subsection.

b) Provided that an individual is not ineligible for benefits under Section 2920.5, whenever an individual receives wages for less than full-time work as defined by Section 2920.5(4) and, in addition to these wages, also receives any of the disqualifying payments referred to by Section 2920.10, the reduced weekly benefit amount calculated according to the formula given by subsection (a) with respect to that week shall be further reduced by the sum of such additional disqualifying payment, provided, however, that if the sum of these additional disqualifying payments plus that part of the wages for less than full-time work referred to by Section 2920.5(a)(4) which is in excess of 50% of the individual's weekly benefit amount is greater than or equal to the individual's weekly benefit amount, the individual shall be ineligible for any benefits.

1) Example 1:

A) If the individual's weekly benefit amount is..... $130.00

B) 50% of that amount is..... $ 65.00

C) If the individual's wages for less than full-time work under Section 2920.5(a)(4) are ..... $ 75.50

D) The amount by which the wages given in line exceed 50% of the individual's weekly benefit amount given in line is..... $ 10.50

E) The difference between the individual's weekly benefit
amount given in line 1 ..... $130.00
and the amount given in line 4..... $ 10.50
is..... $119.50

F) Since the amount given in line 5 is not a multiple of $1, it is raised to the next higher multiple of $1 ..... $120.00

G) Amount of any vacation pay treated as wages which the individual receives with respect to that week is ..... $ 40.00

H) The difference between the amount of reduced benefits the individual would be eligible to receive with respect to that week given in line 6..... $120.00
and the amount of vacation pay treated as wages with respect to that week given in 7 ..... -$ 40.00
is..... $ 80.00

The amount of $80.00 represents the reduced benefits the individual is eligible to receive under this subsection.

2) Example 2:

A)	If the individual's weekly benefit amount is	$150.00
B)	50% of that amount is	$ 75.00
C)	If the individual's wages for less than full-time work under Section 2920.5(a)(4) are	$ 82.00
D)	The amount by which the wages given in line 3 exceed 50% of the individual's weekly benefit amount given in line 4 is.....	$ 7.00
E)	The difference between the individual's weekly benefit amount given in line 1	$150.00
	and the amount given in line 4.....	$ 7.00
	is.....	$143.00
F)	Amount of any vacation pay treated as wages which the individual receives with respect to that week is	$ 40.00
G)	Amount of disqualifying retirement pay which the individual receives during that week is	$ 60.00
H)	The difference between the amount of reduced benefits the individual would be eligible to receive with respect to that week given in line 5.....	$143.00
	and the sum of vacation	- 40.00
	and the retirement pay with respect to that week given in lines 6 and 7.....	- 60.00
	is.....	$ 43.00

The amount of $43.00 represents the reduced benefits which the individual is entitled to receive under this subsection.

3) Example 3: Assume the facts as in Example 2 with the exception that the individual's wages for less than full-time work under Section 2920.5(a)(4) are $120.00 instead of $82.00. Since the sum of his wages for less than full-time work plus the individual's vacation pay equals $160.00 which is greater than the individual's weekly benefit amount of $150.00, the individual is ineligible to receive any reduced benefits under this Section because of the ineligibility provisions of Section 2920.5(a).

4) Example 4: Assume the same facts as in Example 2 with the exception that the individual's retirement pay is $105.00. The individual's wages for less than full-time work is $82.00, the individual's vacation

pay is $40.00, and the individual's weekly benefit amount is $150.00. Although the sum of the individual's wages for less than full-time work and the vacation pay ($82.00 + $40.00 = $122.00) is less than the individual's weekly benefit amount ($150.00) and hence does not make the individual ineligible for benefits as in Example 3 and although the sum of the vacation pay and the retirement pay ($40.00 + $105.00 = $145.00) is also less than the individual's weekly benefit amount, the individual is nonetheless ineligible for benefits under subsection (b) because the sum of the vacation pay and retirement pay ($40.00 + $105.00= $145.00) plus that part of the wages for less than full-time work which is in excess of 50% of the individual's weekly benefit amount ($82.00 - $75.00 = $7.00) is greater than the individual's weekly benefit amount ($145.00 + $7.00 = $152.00).

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Section 2920.18 Voluntary Withholding for Federal and/or State of Illinois Income Tax

a) Whenever an individual voluntarily elects, under Section 1300 of the Act, to have monies withheld from his or her unemployment insurance benefits to cover possible federal and/or State of Illinois income tax liability, the amount of benefits subject to income tax withholding is the sum of the individual's weekly benefit amount (WBA), following any of the mandatory deductions from unemployment benefits set forth in this subsection (a), plus any spouse or dependent allowance payable under the Act. The following are the mandatory deductions:

1) Disqualifying income, including vacation pay, holiday pay, retirement pay, and workers' compensation, under Section 2920.10;

2) Wages for less than full time work payable to him or her with respect to that week that are in excess of 50% of his or her weekly benefit amount;

3) One-fifth of the individual's WBA for each day that the individual was unable or unavailable for work as required by Section 402 of the Act.

b) Whenever an individual has voluntarily elected, under Section 1300 of the Act, to have monies withheld for federal and/or State income tax from his or her unemployment benefits for a period covered by a benefit payment, the Department shall, when withholding for federal income tax, withhold 10% of the amount of benefits that are subject to withholding under subsection (a), rounded (if not already a multiple of one dollar) to the nearest dollar and, when withholding for State income tax, withhold a percentage of the amount of benefits that are subject to withholding under subsection (a) equal to the tax rate for individuals pursuant to the Illinois Income Tax Act [35 ILCS 5], rounded (if not already a multiple of one dollar) to the nearest dollar. If the product is equally near 2 multiples of one dollar, it shall be rounded to the higher multiple of one dollar. If the individual's benefits for a week, less amounts subject to recoupment under Section 2835.15 and less any involuntary deductions for child support pursuant to Section 2815.105, are less than the amount that would otherwise be withheld pursuant to this subsection, the entire amount of the benefits remaining shall be withheld. If the individual elects to have both federal and State income taxes withheld and the amount remaining is insufficient to cover both taxes, the entire amount of State tax shall be withheld before any federal tax is withheld.

1) EXAMPLE: The individual elects both federal and State income tax withholding. The individual's WBA for each of the weeks ending February 5, 2011, and February 12, 2011, is $251. The individual receives a dependents' allowance of $81 for each week. The Department will deduct for federal income tax withholding 10% of $332 for each week that equals $33.20, which, rounded to the nearest dollar, is $33. Additionally, the Department will deduct for State income tax withholding 5% (the tax rate for individuals pursuant to the Illinois Income Tax Act for the 2 weeks in question) of $332, which equals $16.60 for each week, which rounded to the nearest dollar, is $17. Accordingly, the individual will receive $564 in benefits for the 2 week period after having $66 deducted for federal income tax withholding and $34 deducted for State income tax withholding.

2) EXAMPLE: The individual elects both federal and State income tax withholding. The individual's WBA for each of the weeks ending February 5, 2011 and February 12, 2011 is $129. The individual receives a dependents' allowance of $42 for each week.

For the first week of the payment period, the individual has $90 in disqualifying vacation pay, but in the second week the individual does not have any disqualifying vacation pay.

The amount of benefits subject to federal and State income tax withholding for the first week is $129 less $90 in vacation pay, which equals $39 plus his or her dependents' allowance of $42, which totals $81. Because the individual did not receive any disqualifying vacation pay for the second week of the period, the amount of benefits subject to federal and State income tax withholding attributable to the second week is $129 plus his or her dependents' allowance of $42, which totals $171.

The Department will deduct for federal income tax withholding 10% of $81 for the first week, which equals $8.10, which, rounded to the nearest dollar, is $8. The Department will deduct for State income tax withholding 5% (the tax rate for individuals pursuant to the Illinois Income Tax Act for the 2 weeks in question) of $81, which equals $4.05, which, rounded to the nearest dollar, is $4.

The individual will receive $69 for the first week after having $8 deducted for federal income tax withholding and $4 deducted for State income tax withholding. The Department will deduct for federal income tax withholding 10% of $171 for the second week, which equals $17.10, which, rounded to the nearest dollar, is $17.

The Department will deduct for State income tax withholding 5% of $171, which equals $8.55, which, rounded to the nearest dollar, is $9. The individual will receive $145 for the second week after having $17 deducted for federal income tax withholding and $9 deducted for State income tax withholding. The individual's payment for the two week period will be $214.

3) EXAMPLE: The individual's WBA for each of the weeks ending February 5, 2011 and February 12, 2011 is $129. The amount of benefits subject to federal and State income tax withholding for each week of the two week period is $129.

   10% of $129 equals $12.90, which, rounded to the nearest dollar, is $13. 5% of $129 equals $6.45, which, rounded to the nearest dollar, is $6.

   In this example, assume that the individual has elected both federal and State income tax withholding, that the individual is also subject to recoupment for both weeks in an amount up to 25% of his or her WBA, which amount is $32.25 for both weeks, and that the individual is subject to a withholding order of $100 for child support for the first week.

   For the first week, the Department will first recoup the entire amount of $32.25 due for that first week. $129 minus $32.25 equals $96.75. Because the individual does not have sufficient benefits to cover the full amount of child support due for that first week, the Department will deduct $96.75, the amount of benefits available for that week. The individual's payment for the two week period will not include any benefits with respect to that first week.

   For the second week of the payment period, the individual is not subject to a withholding order for child support. Accordingly, the individual is eligible to receive $96.75 for the second week, the difference between the benefits payable to him or her for that week ($129) and the amount recouped ($32.25). Because the individual has elected both federal and State income tax withholding for the period covered by the payment, the Department will deduct $13 for federal income tax withholding

and $6 for State income tax withholding from the individual's benefits and pay the individual the remaining $77.75.

4) EXAMPLE: Assume the same situation described in subsection (b)(3), except that the individual's withholding for court ordered child support is $90 for each week. The amount of benefits subject to federal and State income tax withholding for the two week period remains the same.

The individual has sufficient benefits for the Department to recoup the maximum amount and to deduct for child support in full for both weeks. If the individual had not elected to withhold federal and State income tax, the individual would have received $13.50, the sum of $6.75 and $6.75 for each week. Because the individual has elected federal and State income tax withholding for this period and because the benefits for the period after recoupment and child support are less than 10% plus 5% of the amount subject to withholding, the Department will deduct the entire $13.50 for income tax withholding ($12 for State income tax withholding ($6 in each week) and the remaining $1.50 for federal income tax withholding ($.75 in each week)) and not pay the individual any benefits for this period.

c) An individual's election and his or her revocation of his or her election to have monies withheld from his or her benefits for possible federal and/or State income tax liability shall be prospective only. Any decision made by the Department as to whether an individual has, under the Act, elected withholding or revoked a withholding election shall constitute a final administrative decision, subject to review under the Administrative Review Law [735 ILCS 5/Art. III].

EXAMPLE: Upon filing an additional claim during his or her benefit year, an individual elects to have federal and State income tax withheld from his or her unemployment benefits paid in 2006. His or her first benefit check covers the two-week period beginning January 8, 2006 and ending January 21, 2006. His or her WBA is $250, and the amount subject to withholding for the period is $65 (10% and 3% of $500). For each week, he or she is subject to recoupment of 25% of his or her WBA and a withholding order of $100 for child support. Consequently, his or her benefit check for the two-week period is for $110. When he or she receives his or her benefit check, he or she asks to revoke the elections, explaining he or she thought the income tax withholding would be based on a percentage of his or her WBA after recoupment and child support. While the Department, if he or she desires, will revoke his or her elections to withhold with respect to a period that has not yet ended, it will not retroactively revoke his or her elections with respect to January 8 through January 21. Elections and revocations can only operate prospectively.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.20 Reduced Benefits: Payment Of Dependents' Allowance Or Spouse's Allowance
An individual who is eligible to receive reduced benefits with respect to any week under the provisions of Section 2920.10 or Section 2920.15 shall, in addition to such benefits, be eligible to receive the full amount of any dependents' or spouse's allowance to which such individual may be entitled under Section 401 of the Act.

a) Example 1: An individual is eligible to receive $84.00 in reduced benefits with respect to a particular week under the provisions of Section 2920.10 and a dependents' allowance of $30.00. Since the individual is eligible for reduced benefits, such individual is also entitled to receive $30.00 in dependents' allowance for that week.

b) Example 2: An individual receives $140.00 in payments with respect to a week treated as wages or otherwise disqualifying under Section 2920.5. The individual's weekly benefit amount is $130.00. Since such individual is ineligible to receive any benefits, such individual is not entitled to receive any dependents' or spouse's allowance.

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Section 2920.25 Payments Made During Shutdown For Inventory Or Vacation Purposes

a) Amounts that an employer pays or holds himself liable to pay an individual as vacation pay or allowance, or as pay in lieu of vacation, or as standby pay during an announced period of shutdown for inventory or vacation purposes shall be treated as wages in amounts equal to the individual's wages for a normal work day defined in Section 2920.1. Such amounts treated as wages under this Section shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent work day in such period, except paid holidays, until the amount so paid or owing is exhausted. If a paid holiday occurs during the announced shutdown period, this period shall be extended by such paid holiday.

b) An employer shall announce the period of shutdown for inventory or vacation purposes by posting a notice at the place of employment or by giving other reasonable notice to its employees and the collective bargaining representative, if any, of the period during which the place of employment will be shut down for vacation or inventory. Such notice must be given at least 2 working days prior to the commencement of the shutdown.

c) An employer's announced purpose of the shutdown may be disputed by evidence showing that the shutdown was for purposes other than vacation or inventory. In such case, a determination will be made after a full investigation with respect to the disputed issue, taking into consideration the reasonableness of the period of the announced shutdown, the vacation period prevailing in the industry, the bargaining agreement, if any, and the length of previous shutdowns for vacation or inventory purposes. If it is shown that the shutdown was for purposes other than vacation or inventory, then the amounts that an employer pays or holds himself liable to pay an individual as vacation pay or allowance, or as pay in lieu of vacation, or as standby pay shall not be treated as wages under this Section. Amounts which do not qualify as wages under this Section may qualify as wages under Section 2920.30, because they are made in connection with a separation or layoff.

d) In deciding whether amounts paid or payable to the individual shall be treated as vacation pay under this Section, the actual amount of vacation leave available to the individual at the time of the shutdown is not material.

e) The fact that the period of announced shutdown for vacation or inventory purposes covered under this Section is preceded or followed by a layoff due to lack of work or a period of vacation or holiday covered under Sections 2920.30 or 2920.35 does not affect the treatment of the payments received under this Section. The existence of the situations described in subsections (d) and (e) might be relevant evidence, however, in deciding whether the announced shutdown was truly for vacation or inventory purposes under subsection (c).

1) Example 1: The employer announced a one week shutdown for inventory purposes on June 1, effective for the week beginning June 20. The individual was laid off for lack of work on May 3. If the employer's payments to the individual for the week beginning June 20, otherwise satisfy the requirements of this Section, the fact that the announced period of shutdown for inventory purposes follows a period of layoff due to lack of work does not affect the status of those payments as wages under this subsection.

2) Example 2: Assume the same situation given in the preceding example except for the additional fact that the individual is able to introduce evidence that the shutdown for the week beginning June 20, was not intended for inventory purposes but rather was scheduled because of lack of work. In this

situation, the provisions of subsection (c) control in deciding whether the employer's payments to the individual are treated as wages under this Section.

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Section 2920.30 Payments Made in Connection with Separation or Layoff as, or in the Nature of Vacation Pay, Vacation Pay Allowance or as Pay in Lieu of Vacation

a) In situations other than those described in Section 2920.25, amounts that an employer pays, becomes obligated to pay, or holds itself ready to pay the individual as, or in the nature of vacation pay, or vacation pay allowance, or as pay in lieu of vacation shall be treated as wages provided that all of the following conditions are satisfied:

1) The amounts are paid or payable "in connection with" the separation or layoff of the individual. Amounts are paid or payable "in connection with" the separation or layoff of the individual for the purposes of this Section whenever there is a relationship between such payments and the separation or layoff. Evidence of a relationship is provided by the employer's pay plan or by the labor-management agreement.

A) EXAMPLE: The individual is entitled to receive two weeks of vacation pay on the anniversary date of employment that occurs on June 1. The employer is required to make payment for that date. The individual along with other employees is laid off for an indefinite period beginning June 1. The individual files for benefits for the week beginning on June 1 and the employer files a timely protest contending under Section 610(B) of the Act that its liability to pay the individual's two weeks of vacation pay renders the individual ineligible to receive benefits with respect to that two week period. The individual is not ineligible to receive benefits under this subsection because the employer's liability to make those vacation payments is not "in connection with" the layoff. No relationship exists between the employer's liability to make vacation payments and the individual's layoff. The connection that does exist is purely fortuitous.

B) EXAMPLE: Under the terms of the labor-management agreement, the individual is entitled to receive two weeks of vacation pay on June 1. The labor-management agreement also provides that in the event of any layoff or separation, that occurs prior to June 1, the employer's liability for accrued vacation pay shall be accelerated to the period immediately subsequent to the effective date of the individual's layoff or separation. The individual, along with other employees, is laid off for an indefinite period beginning May 15. If the protest is timely, the individual is ineligible to receive benefits under this subsection with respect to the two week period beginning May 15, because the employer's liability to make vacation allowance payments is "in connection with" the individual's layoff. The labor-management agreement regarding the acceleration of vacation payments is conditioned upon the individual's layoff or separation. The occurrence of the layoff on May 15 fulfills this condition. Accordingly, a connection exists between the employer's liability to make accelerated vacation payments and the layoff of the individual, a connection that is not merely fortuitous, unlike the situation described in the EXAMPLE in subsection (a)(1)(A).

2) Within 10 calendar days after the date the notice of the filing of an individual's claim for benefits is mailed or within 10 calendar days after the date vacation pay is paid or payable, the employer notifies the Director by returning the Notice of Claim form (ADJ030F) or submitting a letter in lieu thereof which:

A) Designates the period for which the payments shall be allocated; and,

B) Specifies the amount of vacation pay allocated to the designated period.

EXAMPLE: The individual is laid off on June 1. Under the employer's pay plan, the individual receives his vacation pay two weeks after his last day of work. The notice of the filing of the individual's claim for benefits is mailed on June 4. The individual's vacation pay is received June 15. The employer files an ADJ030F on June 20. Although the ADJ030F was not filed within 10 calendar days after the mailing of the notice of the individual's claim for benefits, it is still timely under this subsection (a)(2) because it was filed within 10 calendar days after the date the individual's vacation pay was paid.

3) There must be a reasonable relationship between the period of vacation designated by the employer and the amount of vacation pay allocated to that period. The relationship shall be considered reasonable if:

A) The period designated by the employer immediately follows the last day worked by the individual;

B) The period designated by the employer immediately follows the date of the individual's claim for benefits;

C) It is usual and customary as a matter of company policy for the vacation payments to accrue during the period designated, even when the period does not immediately follow the last day worked; or

D) The allocation of vacation payments to the period designated is pursuant to a collective bargaining agreement with the employer.

b) Amounts that an employer pays, becomes obligated to pay, or holds itself ready to pay the individual as, or in the nature of vacation pay, or vacation pay allowance, or as pay in lieu of vacation which constitute wages under subsection (a) shall be treated as wages in sums equal to the individual's wages for a normal workday. The amounts treated as wages under this Section shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in that period, except paid holidays, until the amount so paid or owing is exhausted. An employer's allocation of those amounts in a manner different from that set forth in this subsection shall be ineffective. If an individual is entitled to receive and does receive pay for a holiday for any work day in that period designated by the employer under subsection (a)(2), the period shall be extended by the paid holiday.

c) If the employer fails to comply with the conditions set forth in subsection (a), amounts paid or payable to an employee during a period of vacation shall not be treated as wages with respect to any week after the separation or layoff unless these payments shall satisfy the requirements for vacation pay during shutdown for inventory or vacation purposes treated as wages under Section 2920.25.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.35 Holiday Pay

a) Amounts which an individual is entitled to receive and receives for a holiday shall be treated as wages.

b) For the purposes of this Section, a holiday is defined as a day of public commemoration or celebration during which the employee performs no services pursuant to the employer's pay plan or labor-management agreement. A holiday is not limited to official legal holidays.

c) Unless the labor-management agreement or employer's pay plan stipulates otherwise, such holiday pay shall be attributed to, or deemed to be payable with respect to, the week in which the holiday occurs or is celebrated. The date on which such pay is received does not affect its allocation to the week in which the holiday occurs or is celebrated.

d) Unless the labor-management agreement stipulates otherwise, whenever the holiday falls within:

1) An announced vacation or inventory period as provided by Section 2920.25; or,

2) A designated vacation period in connection with a separation or layoff as provided by Section 2920.30;

an individual who receives holiday pay shall be deemed to have received wages for a normal work day on the day the holiday occurs or is celebrated.

Example: For the week ending November 14, an individual is entitled to 5 days of vacation pay and 1 day holiday pay for Veterans Day which occurs on November 11. The vacation pay for 4 days and the holiday for November 11 shall be deducted from the benefit week ending November 14. The vacation period, however, is extended to the next week by one day. Vacation pay for the day shall be deducted in full from the benefits for the week ending November 21.

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Section 2920.40 Payments In Lieu Of Notice Of Separation Or Layoff

a) Wages

1) Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff, except for payments related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act [820 ILCS 65] or the federal Worker Adjustment and Retraining Notification Act (29 USC 2101 et seq.), shall be treated as wages with respect to the period of notice, provided that the following conditions are met:

A) There must be an employment agreement or a uniformly applied company policy that requires that the employing unit give the employee a definite period of notice before a layoff or separation;

B) The employee must be laid off or separated without the required notice; and

C) The employing unit must pay the employee a sum equal to his regular wages, or an amount computed in accordance with a formula based on the employee's past earnings, for the required period of the notice.

2) If the amounts treated as wages in lieu of notice with respect to a week pursuant to this subsection (a) exceed the individual's weekly benefit amount, the individual shall be ineligible to receive benefits with respect to that week.

b) Service Payments. Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff that do not satisfy the conditions set forth in subsection (a) shall be treated as severance pay described in Section 2920.45 except for payments that qualify as vacation pay in connection with a layoff or separation, as provided in Section 2920.30 and are not related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act or the federal Worker Adjustment and Retraining Notification Act.

(Source: Amended at 29 Ill. Reg. 1935, effective January 24, 2005)

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Section 2920.45 Severance Pay

a) Amounts paid or payable to an individual for past services rendered by the individual to an employer or amounts paid or payable to an individual for pension or seniority rights lost upon separation or layoff shall be considered severance pay. Such pay shall not be considered wages payable or attributable with respect to the period subsequent to the individual's separation or layoff. Amounts paid or payable to the individual as severance pay shall not render the individual ineligible to receive benefits under Section 2920.5. The nature and purpose of such payments, rather than their characterization, shall determine whether or not such payments are considered severance pay under this Section.

b) For the purpose of this Section, the status of payments as severance pay is not altered by the fact that:

1) Such payments are voluntary; or that,

2) Such payments are made periodically rather than in the form of a lump sum.

A) Example 1: An employer's separation pay program provides for a lump sum payment based on the length of service. The purpose of the payment is to allow the individual to maintain his standard of living while he seeks other work. The individual performs no services after his date of separation. This lump sum payment constitutes severance pay under this Section and hence is not disqualifying.

B) Example 2: The individual was notified that he was to be terminated from employment on April 17. The individual worked on the employer's premises until April 6 but performed incidental services to the employer from April 6 through April 17 by telephone in training a replacement. The wages received from April 6 through April 17 are not severance pay. Because the individual performed some services and received wages for the period April 6 through April 17, he was not unemployed under Section 239 of the Act and hence not eligible for benefits under the Act.

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Section 2920.48 Residual Payments

Residual payments constitute remuneration for personal services and, therefore, must be deducted from unemployment insurance benefits as provided in Section 402 of the Act. However, residual payments are attributable only to the weeks in which the personal services were actually performed and, therefore, are deductible only from those weeks.

Example: During the week ending March 2, 1991, an individual performs in a commercial. This commercial is scheduled to air on television every Friday from March 8, 1991 until May 24, 1991. As compensation for his performance, the individual will receive residual payments every time that the commercial is aired. These residual payments constitute remuneration for personal services for the week ending March 2, 1991 only. If this individual claims unemployment insurance benefits for that week, the residual payments shall be deducted from his benefits as provided in Section 402 of the Act.

(Source: Added at 15 Ill. Reg. 11416, effective July 30, 1991)

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Section 2920.50 Back Pay Awards

a) An individual who receives a "back pay award" as a result of a decision by the National Labor Relations Board, a court of law, any other governmental agency, in accordance with the employer's grievance procedure, if any, or in voluntary settlement of any back pay dispute is considered to have received wages for services under the Act and hence is ineligible for benefits during any week of the period covered by the back pay award in which the amount of the back pay award equals or exceeds the individual's weekly benefit amount. If the amount of back pay attributable to any week covered by the back pay award is less than the individual's weekly benefit amount, the individual may be eligible for reduced benefits under Section 2920.10.

b) Whenever an individual's back pay award is accompanied by any additional amounts awarded as a penalty, those amounts are not considered wages and do not affect an individual's eligibility for benefits under this Part.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.55 Receipt Of Or Filing For Unemployment Insurance Benefits Under The Laws Of Another State, Canada, Or The United States

a) An individual shall be ineligible to receive benefits with respect to any week or weeks for which such individual received unemployment insurance benefits under the laws of the United States, another state, or Canada.

b) Subject to subsection (c), an individual shall also be ineligible to receive benefits with respect to any week or weeks for which such individual is seeking unemployment insurance benefits under the laws of the United States, another state, or Canada.

c) An individual who is ineligible for benefits under subsection (b) becomes eligible to receive benefits with respect to any week or weeks for which such individual has sought benefits under the laws of the United States, another state, or Canada once the unemployment insurance administration agency of the United States, another state, or Canada where the individual's claim for benefits was filed makes a final determination that the individual is not entitled to receive unemployment insurance benefits under their laws.

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Section 2920.60 Supplemental Unemployment Benefits (SUB Pay)

Supplemental unemployment benefits paid or payable to individuals laid off by an employer under a plan intended to augment unemployment insurance benefits received under the Act shall not render the individual to whom such supplemental benefits are paid or payable ineligible to receive benefits, provided that all of the following conditions are satisfied:

a) The individual is otherwise eligible to receive benefits under the Act; and,

b) Payment of supplemental benefits is made under a trust agreement or other contractual plan which grants the individual a vested right to receive these supplemental payments once the conditions set forth in the trust agreement or contractual plan have been satisfied; and,

c) The trust agreement or plan treats each individual of a class of employees similarly.

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Section 2920.65 Retirement Pay

a) For the purposes of this Part, retirement pay is defined as any pension, annuity, or other similar payment made to an individual:

1) That is either paid or could have been paid on a periodic basis on account of the individual's separation from an employing unit; and

2) Under a plan maintained or contributed to by an organization or individual for whom the individual performed services during his or her base period or for which the organization or individual, including those that have elected to make payments in lieu of paying contributions, is chargeable for any benefit payments made to the individual, pursuant to Section 1502.1 of the Act.

b) Nothing in this Section shall prohibit payments from a plan maintained and operated by a union from constituting retirement pay provided that those payments otherwise satisfy the requirements of subsection (a).

c) A lump sum payment to an individual on account of his or her separation from an employing unit shall constitute retirement pay, as defined by this Section, if this lump sum payment could have been paid on a periodic basis at the option of the individual; provided, however, that the individual's receipt of the a lump sum payment also satisfies the requirements of subsection (a)(2).

EXAMPLE: A lump sum payment made to an individual on account of his separation shall not constitute retirement pay under this Section when the individual did not have the option to receive those payments on a periodic basis. It should be noted, however, that under Section 2920.70(c), the lump sum payments shall be considered disqualifying income with respect to the week in which they are paid.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.66 Payments To An Election Judge

The compensation paid to an election judge by a Board of Elections constitutes remuneration for personal services and, therefore, must be deducted from unemployment insurance benefits as provided in Section 402 of the Act, and service as an election judge also constitutes bona fide work for the purpose of Section 607 of the Act.

(Source: Added at 15 Ill. Reg. 11416, effective July 30, 1991)

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Section 2920.68 Payments by a Labor Union

a) Payments made by a labor union to an individual for picketing at an employing unit's place of business or for conducting negotiations on behalf of the labor union are wages under Section 234 of the Act because the individual is performing a service for the labor union.

EXAMPLE: A labor union is engaged in a labor dispute with a certain employer. Because this particular union represents only a small portion of the employer's total work force and because of the vast size of the employer's facility, it is not possible for the union's own members to set up a meaningful picket line at this facility. For this reason, the union hires non-members to assist in picketing the facility. Their remuneration constitutes wages under Section 234 of the Act. However, the union does not pay its own members for picketing; instead, they receive what is called "strike pay". However, this is money that is available to members to sustain them during the labor dispute and is not tied to the amount of time that they spend on the picket line. This money is not wages under Section 234 of the Act.

b) Strike benefits or welfare fund payments made to members of a labor union during a labor dispute in order to sustain the members during the period of the dispute are not wages as they are not payments for services performed for the labor union.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.69 Jury Service

a) Compensation paid for mandatory jury service (see 56 Ill. Adm. Code 2732.210) is not remuneration for personal services and, therefore, shall not constitute wages for the purpose of Section 402 of the Act nor shall mandatory jury service constitute bona fide work for the purpose of Section 607 of the Act.

b) Compensation paid for voluntary jury service, such as for a Coroner's jury, is remuneration for personal services and, therefore, does constitute wages for the purpose of Section 402 of the Act. Such voluntary service also constitutes bona fide work for the purpose of Section 607 of the Act.

(Source: Added at 15 Ill. Reg. 11416, effective July 30, 1991)

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Section 2920.70 Retirement Pay Considered Disqualifying Income

a) The entire amount of payments made to an individual constituting retirement pay under Section 2920.65 shall be considered disqualifying income if:

1) These payments are from any individual or organization that has paid all of the cost of the individual's retirement pay and:

A) for which the individual performed services during his or her base period or

B) that is chargeable under Section 1502.1 of the Act, including those organizations that have elected to make payments in lieu of paying contributions, for any benefit payments made to the individual; or,

2) These payments are from a trust, annuity or insurance fund or under an annuity or insurance contract where all the premiums or contributions were paid by any individual or organization:

A) for which the individual performed services during his or her base period or

B) that is chargeable under Section 1502.1 of the Act, including those organizations that have elected to make payments in lieu of paying contributions, for any benefit payments made to the individual.

b) One-half of payments made to an individual constituting retirement pay under Section 2920.65 shall be considered disqualifying income if the individual or organization referenced in subsection (a) has paid some, but not all, of the cost of the individual's retirement pay or some but not all of the premiums or contributions paid to the trust, annuity or insurance fund or for the annuity or insurance contract.

1) EXAMPLE: Payments from independent pension plans established and funded entirely by the individual, such as individual retirement accounts (IRA) or Keough plans, are not disqualifying within the meaning of this Section because the employer pays no part of the cost of the IRA or Keough plan.

2) EXAMPLE: The individual contributes to a retirement plan at a fixed rate of 25%. The employing unit contributes the remaining 75%. Since part of the total contributions to the plan is provided by the employer, 50% of each retirement payment is disqualifying income.

3) EXAMPLE: The individual and the employing unit make variable contributions to a retirement plan. However, upon maturity of the plan, the individual has contributed 40% of all of the contributions and the employing unit has contributed the remaining 60%. Since part of the total contributions to the retirement plan is provided by the employer, 50% of each retirement payment is disqualifying income.

4) EXAMPLE: The individual belongs to a retirement plan maintained and operated by the union. The employer contributes 60% of the cost of maintaining and operating the plan, the union contributes 5%, and the individual contributes the remaining 35%. Since part of the total contributions to the retirement payment is provided by the employer, 50% of each retirement payment is disqualifying income.

c) Notwithstanding subsections (a) and (b), lump sum payments made on account of retirement that the individual had no option to receive on a periodic basis, or those lump sum payments that the individual had an option to receive on a periodic basis but of which the employer fails to notify the Director as required under Section 2920.75(d), shall be considered disqualifying income under this Section with respect to the week in which they are paid.

d) For purposes of subsections (a) and (b), the successor to an individual or organization is considered to be the individual or organization.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)

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Section 2920.75 Allocation Of Retirement Pay

a) Whenever an individual has received or will receive amounts as retirement pay as defined by Section 2920.65 for a half month period, an amount shall be deemed to have been paid the individual for each day equal to one-fifteenth of such amounts.

b) Whenever an individual has received or will receive amounts as retirement pay as defined by Section 2920.65 for a one month period, an amount shall be deemed to have been paid the individual for each day equal to one-thirtieth of such amounts.

c) Whenever an individual has received or will receive amounts as retirement pay as defined by Section 2920.65 for any other period, an amount shall be deemed to have been paid the individual for each day in the period equal to the amounts of retirement pay divided by the number of days in the period.

d) Whenever an individual has received or will receive a lump sum amount which constitutes retirement pay under Section 2920.65, and if the retirement pay could have been received on a periodic basis at the option of the individual, an amount shall be deemed to have been paid the individual for each day in the period for which a periodic payment could have been received, provided that the employer has satisfied the notice requirement of this subsection. The amount deemed to have been paid shall be allocated in accordance with the formulas in subsections (a), (b) or (c) above, as appropriate. Within 10 calendar days after notification of the filing of the individual's claim for benefits, the employer must designate by notice to the Director the periodic basis on which the individual could have received the retirement pay, the amount that the individual could have received each period and the duration for which periodic payments could have been made. Failure to so notify the Director shall result in such lump sum payment being treated as disqualifying only for the week in which it was paid under Section 2920.70(c).

Example 1: An individual retires from Company A. In accordance with the company's retirement plan, the individual has the option to receive a lump sum payment of $300,000.00 or a monthly annuity of $3,000.00 for the rest of his life. The individual chooses to receive the lump sum. The individual then files a claim for benefits. If the company notifies the Director within 10 calendar days after notification of the individual's claim for benefits, designating the periodic basis on which the individual could have received retirement payments, the amount the individual could have received each period, and the duration for which the individual could have received the periodic payments, the individual's $300,000.00 lump sum retirement payment will be deemed to have been received in monthly installments of $3,000.00 and will be allocated in accordance with subsection (b).

Example 2: The same situation as that given in the preceding example except that the company fails to notify the Director within 10 calendar days after notification of the individual's claim for benefits of the individual's option to receive periodic retirement payments. The company's failure to give such notice results in the individual's receipt of the lump sum retirement payment being treated as disqualifying only for the week in which it was paid.

(Source: Amended at 18 Ill. Reg. 4166, effective March 3, 1994)

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Section 2920.80 Miscellaneous Forms of Retirement Pay

a) On the basis of the definitions and principles concerning retirement pay set out in Sections 2920.65 and 2920.70, an individual's receipt of payments from the following sources shall be considered 100% disqualifying income:

1) All profit sharing plans funded entirely by the individual or organization for whom the individual performed services that constitute retirement pay under Section 2920.65;

2) All federal military service pensions if the United States military service paid wages to the individual during his or her base period;

3) All pensions under the Railroad Retirement Act of 1974 (45 USC 231-231t) if an organization covered under that Act paid wages to the individual during his or her base period.

b) On the basis of the definitions and principles relating to retirement pay set out in Sections 2920.65 and 2920.70, an individual's receipt of payments from the following sources shall be considered 50% disqualifying income:

1) Federal civilian employment pensions if the individual was paid for federal civilian services during his base period;

2) All State or local government retirement or disability pensions if the individual performed services during his or her base period for the State or the local governmental entity that funded the pension, or if the State or the local governmental entity is chargeable under Section 1502.1 of the Act, including an entity that has elected to make payments, in lieu of paying contributions, for any benefit payments made to the individual.

c) On the basis of the definitions and principles concerning retirement pay set out in Sections 2920.65 and 2920.70, an individual's receipt of payments from the following sources shall not be considered disqualifying income:

1) An independent pension or retirement plan that was fully paid for by the individual;

2) Social Security benefits payable to a surviving spouse or dependent, not attributable to the previous work of the surviving spouse or dependent;

3) Veterans Administration compensation payments that are not federal military service pensions;

4) Any federal (military service or civilian employment) disability payments if they are not part of a retirement plan;

5) Payments from IRA and Keough Accounts;

6) A pension or retirement plan funded by an individual or organization, including one that has elected to make payments in lieu of contributions, that is neither chargeable, pursuant to Section 1502.1 of the Act, for any benefits paid to the individual nor for which the individual performed services during his or her base period.

7) Social Security retirement pensions and disability payments based on the individual's employment, including those based on self-employment.

(Source: Amended at 45 Ill. Reg. 10834, effective August 23, 2021)

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Section 2920.85 Conformity With Federal Unemployment Tax Act

In order to assure full state tax credit against the tax imposed by the Federal Unemployment Tax Act, (26 U.S.C. 3301 et seq) the rules relating to retirement pay shall be interpreted in conformity with the requirements of the Federal Unemployment Tax Act as interpreted by the U.S. Secretary of Labor or other appropriate Federal agency.

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SUBCHAPTER h: EMPLOYMENT SERVICE
PART 2960 GENERAL PROVISIONS

Section 2960.100 Disclosure Of Information

a) General labor market information obtained pursuant to the administration of the Illinois Employment Service, including but not limited to information concerning employment opportunities, employment levels and trends, and labor supply and demand, may be published and released to applicants registered for work by the Employment Service, to employing establishments, and to the public, provided that the publication or release does not include information identifiable to specific applicants or employing establishments.

b) An applicant registered for work by the Employment Service, or an employing establishment, shall be supplied with information obtained pursuant to the administration of the Employment Service to the extent necessary for the proper and efficient performance of recruitment, placement, employment counseling and other functions of the Employment Service.

c) A claimant for benefits, training allowance, or other payments under a State or federal law relating to a system of unemployment insurance, vocational training or trade readjustment allowances, or his or her duly authorized representative, shall be supplied with information from the files and records of the Employment Service to the extent necessary for the proper presentation of his or her claim or the determination of his or her present or prospective rights to the payments.

d) Information obtained pursuant to the administration of the Employment Service shall be made available to:

1) The United States Secretary of Labor, or other appropriate federal agency administering the Social Security Act (42 USC ch. 7), the Area Redevelopment Act, the Job Training Partnership Act, the Trade Expansion Act of 1962 (19 USC 1801 et seq.), the Workforce Innovation and Opportunity Act (29 USC 3101 et seq.), any successor legislation to any of the foregoing or any other federal Act relating to the vocational training of unemployed or underemployed workers;

2) The Railroad Retirement Board;

3) The Internal Revenue Service of the United States Department of the Treasury; and

4) The Department of Revenue of the State of Illinois.

e) Information obtained pursuant to the administration of the Employment Service shall be furnished, if permitted under Section 1900 of the Unemployment Insurance Act (Act) [820 ILCS 405], to any public officer or public agency of this or any other State or the federal government dealing with the administration of a law in relation to:

1) Relief or public assistance;

2) Unemployment Insurance;

3) A system of public employment offices;

4) Fair employment practices;

5) Wages and hours of employment;

6) A program of public works;

7) A pension or retirement system;

8) Vocational rehabilitation.

f) Information received pursuant to the administration of the Employment Service shall be furnished to:

1) An official or officer of a public school, college or university, or a placement official of a private college or university, but only to the extent necessary for the efficient employment counseling, vocational guidance and placement of an applicant registered for work by the Employment Service;

2) A private social or welfare agency, but only if the information has a direct bearing upon the vocational adjustment or employability of an applicant registered for work by the Employment Service, and only to the extent necessary for the proper and efficient discharge of the placement and counseling functions of the Employment Service.

(Source: Amended at 43 Ill. Reg. 6583, effective May 14, 2019)

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Section 2960.105 Disclosure of Information for Use in Employment, Training and Educational Programs Administered by State and Local Governmental Social Welfare Agencies

a) For the purpose of implementing and administering employment, training, educational and social welfare programs, any agency of this State, as defined by Section 1-20 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100] or any other state, any local government of this State, as defined by Section 3(a) of the State Mandates Act [30 ILCS 805], or any agency of the federal government, as defined by sections 551(1) and 552(f) of the federal Administrative Procedures Act (5 USC 551(1) and 552(f)) that trains, educates, grants funds for training or education, engages in research for educational or training purposes, places in employment, provides public assistance payments, provides social welfare services, or any other related service of the State shall be deemed to be a *public agency of this or any other State or the federal government dealing with the administration of relief, public assistance, a system of public employment offices*, as provided in Section 1900 of the Act.

b) Pursuant to Section 1900 of the Act, the IDES Director shall provide those agencies and local entities, information from the files of the Department as the Director deems proper, based upon the written request (i.e., intended use and legal basis for that use, format or forms of data, and schedule for delivery of data) of the agency or entity, to provide outreach and recruitment, assist in intake, determine eligibility, monitor program outcome or evaluate the success of the various services delivered by their employment, training, educational or social welfare programs.

1) EXAMPLE: A State agency administers the federal employment and training funds received by Illinois under the federal Workforce Innovation and Opportunity Act . These funds are subgranted to local workforce development areas that recruit, assess, train and place disadvantaged individuals in unsubsidized jobs. In order to assist in performing these functions, the Director, upon written request, will provide the State agency with identifying information about individuals who qualify for the services that it and its subgrantees can provide. The State agency can provide this information to its subgrantees subject to the execution of shared data agreements with the Department.

2) EXAMPLE: Public educational institutions and public training institutions might be in need of accurate data to help them determine the relative success of their educational and training programs. Upon written request, the IDES Director shall provide to these institutions data that are available to determine increases or decreases in individual wages, duration of employment, if and when the individual filed for unemployment insurance, or other educational or training related factors.

3) EXAMPLE: A State economic development agency seeks to attract new manufacturers to this State. This agency requests current information on the number, size and type of major potential suppliers and subcontractors in a given geographical area. Upon written request, the IDES Director will provide the data to the agency.

4) EXAMPLE: The Illinois Department of Human Services- Division of Rehabilitation Services (DORS) is attempting to contact specific groups of potential employers for their newly trained clients. Upon written request, the IDES Director can provide DORS with a mailing list of companies that are experiencing growth or whose records indicate other factors that might lead to the hiring of the DORS clients. A similar outreach effort could be made on behalf of welfare recipients, ex-offenders, youth or the aging.

c) General administrative data and labor market information, including but not limited to information concerning employment opportunities, levels and trends, labor supply and demand and related statistical data, shall be available to both private and public agencies and individuals. Except as provided in subsections (a) and (b), this information shall not allow for the identification of a specific employing unit or individual.

d) Unless statutorily excluded, the Director shall require payment of the costs incurred in providing the requested information if the Director incurs additional costs in processing the information that are greater than the cost of recovery and the Department does not receive some offsetting benefit (see example) from providing the data.

EXAMPLE: A local government, upon written request, asks the Director to provide a mailing list of all unemployed individuals in its service area who might meet certain eligibility criteria for a training program it will sponsor. Since those mailing lists are not regularly prepared by the Director, the Director may negotiate with the entity regarding the reimbursement of costs for preparing the list, or the Director may provide the list without charge if, for example, the local entity would agree to provide similar data and/or services in return.

(Source: Amended at 43 Ill. Reg. 6583, effective May 14, 2019)

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Section 2960.110 Disclosure of Information for Use by Governmental Agencies Participating in Public Works and Related Programs

a) For the purposes of a governmental public works program, any State agency, as defined by Section 1-20 of the IAPA and/or federal agency, as defined by sections 551(1) and 552(f) of the federal Administrative Procedure Act or local government, as defined in Section 3(a) of the States Mandates Act receiving public works funding shall be deemed to be a *public agency of this or any other state, dealing with a public works program* as provided in Section 1900 of the Act.

b) Pursuant to Section 1900 of the Act, the Director shall provide the agencies and local entities, upon their written request (i.e., intended use and legal basis for that use, format or form of data, and schedule for delivery of data), the information the Director deems proper based upon the written request for planning, development, administration, participation, operation, monitoring and evaluation of a public works or related program.

1) EXAMPLE: The Illinois Department of Transportation is attempting to determine where the growth of industry will occur in a region of the State and the nature of that industry for the purpose of road repair/construction and related infrastructure improvements. This data will be incorporated into a community/county profile currently developed by a regional planning commission comprised of units of local government. The commission will use the profile to enhance the area's image with potentially new and expanding businesses as well as its efforts to obtain federal public works funding. Upon written request from either the commission or the Department of Transportation, the Director will provide information to chart the growth and decline of specific types of employers in the region including their migration from the urban central city to the suburban areas and the recently developed exurban communities.

2) EXAMPLE: A county housing authority is preparing a grant application for federal funds to rehabilitate existing low income housing and expand available housing through new construction in scattered sites. Upon written request from the authority, the Director will provide wage data for specific construction and other occupations to be used in preparing the grant application and also data on the available labor pool, the severity of unemployment and a profile of the unemployed in the area.

3) EXAMPLE: A State university has been placed under contract by a State legislative commission to evaluate whether or not major state infrastructure improvement legislation should be reauthorized and its appropriation maintained or decreased. The university must be able to trace the impact of public works funding to increased numbers of jobs, business expansion and productivity and an overall trend toward higher paying and more skilled jobs. Upon written request, the Director shall supply whatever data the Department might have that would assist the university in completing its analysis.

c) General labor market information, including but not limited to information concerning employment opportunities, levels and trends, labor supply and demand as well as similar statistical data shall be available upon written request to both public and private participants involved in public works and related programs. Except as provided in subsections (a) and (b), information and data shall not allow for the identification of a specific employing establishment or individual.

d) Unless statutorily excluded, the Director shall require payment of costs incurred in providing the requested information if the Director incurs additional costs in processing the information that are greater

than the cost of recovery and the Department does not receive some offsetting benefit (see the example in Section 2960.105(d)) from providing the data.

(Source: Amended at 43 Ill. Reg. 6583, effective May 14, 2019)

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Section 2960.115 Disclosure Of Identifying Information For Job Orders Posted On The Internet

a) The Department shall provide an individual with identifying information regarding an employing establishment through an Internet-based labor exchange system if the employing establishment agrees that the information may be disclosed and if the information is obtained in the administration of the Employment Service and:

1) the Department maintains the system, and the system indicates that the individual's qualifications match the requirements for filling a job opening with the employing establishment; or

2) the system is maintained by an entity other than the Department, and the employing establishment has a job opening posted on the system.

b) The Department shall provide an employing establishment with identifying information regarding an individual through an Internet-based labor exchange system if the individual agrees that the information may be disclosed and if the information is obtained in the administration of the Employment Service and:

1) the Department maintains the system, and the system indicates that the individual's qualifications match the requirements for filling a job opening with the employing establishment; or

2) the system is maintained by an entity other than the Department, and the individual is registered on the system.

(Source: Added at 24 Ill. Reg. 15049, effective September 28, 2000)

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Section 2960.120 Disclosure of Information to One-Stop Partners

The Department shall provide a one-stop partner under section 121 of the federal Workforce Innovation and Opportunity Act with information obtained in the administration of the Employment Service, to the extent the partner is providing services through a one-stop delivery system in Illinois or participating in the operation of such a system in Illinois.

(Source: Amended at 43 Ill. Reg. 6583, effective May 14, 2019)

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SUBCHAPTER i: EXTENDED BENEFITS
PART 2970 PERIODS OF EXTENDED BENEFITS

Section 2970.1 Extended Benefit Period and High Unemployment Period During COVID-19 Pandemic
As of the week beginning December 27, 2020, notwithstanding Section 409(A)(1) of the Act, the extended benefit period beginning May 24, 2020 by virtue of the trigger specified in Section 409(A)(2)(b) of the Act being met remained in effect without lapse, and the high unemployment period beginning July 5, 2020 by virtue of the trigger specified in Section 409(F)(2) of the Act being met remained in effect without lapse. Thereafter, the extended benefit period as described above shall remain in effect through the third week after the first week for which the trigger specified in Section 409(A)(2)(b) of the Act is not met, and benefits payable under the high unemployment period remained in effect until February 20, 2021 under the trigger specified in Section 409(F)(2) of the Act.

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