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July 2, 2009

Submitted via FAX and FEDEX

Cheryl Atkinson, Administrator
Office of Workforce Security
Employment & Training Administration
U.S. Department of Labor
200 Constitution Avenue
Room S-4231
Washington, D.C. 20210

Dear Ms. Atkinson:

In accordance with the Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5 enacted February 17, 2009 and as outlined in Unemployment Insurance Program Letter No. 14-09 and Unemployment Insurance Program Letter No. 14-09-Change 1, I am making application on behalf of the State of Delaware for the distribution of both the one-third portion and the two-thirds portion of the Unemployment Modernization Incentive payment in the amount of \$21,868,398.

Regarding the one-third portion, with the enactment of HB 170 on July 1, 2009, Delaware's unemployment insurance law was amended to provide an "alternate base period" for individuals who have earned insufficient wages in the first four of the last five completed calendar quarters base period to become monetary eligible for unemployment insurance benefits. For such individuals, the alternate base period will be the four most recent completed calendar quarters immediately preceding the effective date of the claimant's unemployment insurance claim.

Regarding the two-thirds portion, with the enactment of HB 170 on July 1, 2009, Delaware's unemployment insurance law was amended to address "compelling family reasons" and "part-time work" as indicated below:

1. Clarify that an individual's family means the individual's spouse, child under the age of 18, or parent.
2. Provide that an individual who quits their employment in order to accompany their spouse to a place from which it is impractical for the individual to commute and due to a change in location of their spouse's employment, will not be disqualified from the receipt of benefits for this reason.
3. Provide that an individual who quits their employment to care for their spouse, their child under the age of 18, or their parent with a verified illness or disability will not be disqualified from the receipt of benefits for this reason.
4. Provide that an individual who is discharged from their employment as the result of the individual providing notice to his/her employer of the intent to leave employment to accompany such individual's spouse to a place from which it is impractical for such individual to commute and due to a change in location of the spouse's employment will not be disqualified from the receipt of benefits for this reason.
5. Provide that an individual who is discharged from their employment as a result of the individual providing care for their spouse, their child under the age of 18, or their parent with a verified illness or disability will not be disqualified from the receipt of benefits for this reason.

6. Provide that an individual who is discharged from their employment due to circumstances directly resulting from the individual's experience of domestic violence will not be disqualified from the receipt of benefits for this reason. (Note: Delaware's UI law already contained a provision regarding voluntarily leaving employment due to domestic violence.)
7. Provide that an individual who refuses a referral to or offer of full-time work shall not be disqualified from the receipt of unemployment insurance benefits for this reason if the individual is permitted to seek only part-time work.
8. Provide that no individual shall be determined ineligible for the receipt of unemployment insurance benefits for any week in which they seek only part-time work, if the majority of weeks of work in their unemployment insurance claim base period were in part-time employment.

With regard to determining whether an individual has experienced domestic violence for unemployment insurance benefits purposes, the Delaware Division of Unemployment Insurance requires the individual to provide documentation to the division of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects. All evidence of domestic violence experienced by an individual, including the individual's statement and any corroborating evidence shall not be disclosed by the division unless consent for disclosure is given by the individual. We believe the verification of domestic violence requirements is reasonable and consistent with III-11 of UIPL No. 14-09.

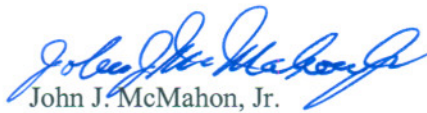
Relative to compelling family reasons, the provisions of HB 170 are consistent with III-10 of UIPL No. 14-09 since the statutory language specifically states that individual who becomes unemployed (both voluntary leaving and discharge) due to compelling family reasons shall not be disqualified from the receipt of unemployment insurance benefits.

HB 170 shall apply to new claims for unemployment insurance benefits filed with an effective date of January 3, 2010 or later. A copy of the enacted legislation is attached. In addition, since Delaware's UI law already contained a provision regarding voluntarily leaving employment due to domestic violence, a copy of this statutory provision is also attached. Please note that HB170 amended this existing domestic violence provision of Delaware's UI law to properly define "family" as provided in III-12 of UIPL No. 14-09.

This is to certify that the alternate base period, the compelling family reasons, and the part-time work provisions of Delaware's Unemployment Insurance Code are permanent and are not subject to discontinuation under any circumstances other than repeal by the Delaware General Assembly. It is the intention of the Delaware Department of Labor to use the funds provided for in both the one-third portion and two-thirds portion to strengthen the Delaware Unemployment Insurance Fund. The objective is to prevent or delay the need for Delaware to request a trust fund advance. This is to also certify that this application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based.

If you have any questions or require additional information, please contact Tom MacPherson, Unemployment Insurance Director, at (302) 761-8350 or Tom.MacPherson@state.de.us.

Sincerely,


John J. McMahon, Jr.
Secretary of Labor

c: Tom MacPherson, DE Unemployment Insurance Director
Lenita Jacobs-Simmons, Regional Administrator, U.S. DOL-ETA Regional Office

Attachments-2



DELAWARE: ATTACHMENT 1

SPONSOR: Rep. B. Short & Rep. Oberle & Sen. Marshall

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO. 170

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT
COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1: Amend Section 3302 (2), Chapter 33, Title 19 of the Delaware Code by adding a second sentence to
2 this subsection to read as follows:

3 "However, if the claimant has earned insufficient wages in the first four of the last five completed calendar
4 quarters to become eligible for benefits, then such claimant's 'base period' shall be the four most recent completed calendar
5 quarters immediately preceding the first day of the claimant's benefit year."

6 Section 2: Amend Section 3314 (1), Chapter 33, Title 19 of the Delaware Code by deleting, "family;" and
7 "family;" as it appears after the word "individual's" in (ii) and (iii) respectively therein, and inserting the following
8 "spouse, child under the age of 18, or parent;" and "spouse, child under the age of 18, or parent." after the word
9 "individual's" as it appears in (ii) and (iii) respectively therein.

10 Section 3. Amend Section 3314 (1), Chapter 33, Title 19 of the Delaware Code by adding a third paragraph to this
11 subsection to read as follows:

12 "An individual, who quits work in order to accompany their spouse to a place from which it is impractical for such
13 individual to commute and due to a change in location of their spouse's employment, will not be considered to have left
14 work voluntarily without good cause attributable to such work. Wage credits earned in such work, if from employment
15 under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute
16 employer's benefits wages in connection with §§ 3349-3356 of this title. Any employer liable for reimbursement payments
17 in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when
18 an individual becomes eligible for benefits upon separation from a subsequent employer."

19 Section 4. Amend Section 3314 (1), Chapter 33, Title 19 of the Delaware Code by adding a fourth paragraph to
20 this subsection to read as follows:

21 "An individual, who quits work to care for their spouse, child under the age of 18, or parent with a verified illness
22 or disability, will not be considered to have left work voluntarily without good cause attributable to such work. For the

23 purposes of this paragraph, a 'verified illness or disability' is defined as one that necessitates the care of the individual's ill
24 or disabled spouse, child under the age of 18, or parent that lasts longer than the individual's employer is willing to grant
25 leave for. Wage credits earned in such work, if from employment under this title in the employ of any employer liable for
26 assessments under § 3348 of this title, shall not constitute employer's benefits wages in connection with §§ 3349-3356 of
27 this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment
28 Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon
29 separation from a subsequent employer.”.

30 Section 5. Amend Section 3314 (2), Chapter 33, Title 19 of the Delaware Code by adding a second paragraph to
31 this subsection to read as follows:

32 “An individual, who is discharged from work because the individual has provided notice to their employer of the
33 intent to quit work to accompany their spouse to a place from which it is impractical for such individual to commute and
34 due to a change in location of their spouse's employment, will not be considered to have been discharged from work for
35 good cause attributable to such work. Wage credits earned in such work, if from employment under this title in the employ
36 of any employer liable for assessments under § 3348 of this title, shall constitute employer's benefits wages in connection
37 with §§ 3349-3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the
38 Unemployment Compensation Fund in accordance with § 3345 of this title.”.

39 Section 6. Amend Section 3314 (2), Chapter 33, Title 19 of the Delaware Code by adding a third paragraph to this
40 subsection to read as follows:

41 “An individual, who is discharged from work because the individual is providing care for their spouse, child under
42 the age of 18, or parent with a verified illness or disability, will not be considered to have been discharged from work for
43 good cause attributable to such work. For the purposes of this paragraph, a 'verified illness or disability' is defined as one
44 that necessitates the care of the individual's ill or disabled spouse, child under the age of 18, or parent that lasts longer than
45 the individual's employer is willing to grant leave for. Wage credits earned in such work, if from employment under this
46 title in the employ of any employer liable for assessments under § 3348 of this title, shall constitute employer's benefits
47 wages in connection with §§ 3349-3356 of this title. Any employer liable for reimbursement payments in lieu of
48 assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title.”.

49 Section 7. Amend Section 3314 (2), Chapter 33, Title 19 of the Delaware Code by adding a fourth paragraph to
50 this subsection to read as follows:

51 “An individual, who is discharged from work due to circumstances directly resulting from the individual's
52 experience of domestic violence, as that term is defined in § 703A (a) of Title 13, will not be considered to have been

53 discharged from work for good cause attributable to such work. An individual's discharge from work shall be treated as
54 due to circumstances directly resulting from the individual's experience of domestic violence if : (i) the individual had
55 reasonable fear of future domestic violence at or en route to or from the individual's place of employment; (ii) the
56 individual relocated to another geographic area in order to avoid future domestic violence against the individual or the
57 individual's spouse, child under the age of 18, or parent; or (iii) any other circumstance in which domestic violence causes
58 the individual to reasonably believe that absence from work is necessary for the future safety of the individual or the
59 individual's spouse, child under the age of 18, or parent. When determining whether an individual has experienced domestic
60 violence for compensation purposes, the Division shall require the individual to provide documentation to the Division of
61 the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter
62 worker, attorney, member of the clergy or medical or other professional from whom the employee has sought assistance in
63 addressing domestic violence and its effects. All evidence of domestic violence experienced by an individual, including the
64 individual's statement and any corroborating evidence shall not be disclosed by the Division of Unemployment Insurance
65 unless consent for disclosure is given by the individual. Wage credits earned in such work, if from employment under this
66 title in the employ of any employer liable for assessments under § 3348 of this title, shall constitute employer's benefits
67 wages in connection with §§ 3349-3356 of this title. Any employer liable for reimbursement payments in lieu of
68 assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title.”.

69 Section 8. Amend Section 3314 (3), Chapter 33, Title 19 of the Delaware Code by adding a new paragraph (e) to
70 read as follows:

71 “(e) The referral or offer was for full-time work and the individual is permitted to seek only part-time work under
72 the provisions of § 3315(3) of this title.”.

73 Section 9. Amend Section 3315 (3), Chapter 33, Title 19 of the Delaware Code by adding a new last paragraph to
74 this subsection to read as follows:

75 “No individual shall be determined ineligible for the receipt of unemployment insurance benefits for any week in
76 which they are available for and seek only part-time work, if the majority of weeks of work in their base period were in
77 part-time employment. For purposes of this paragraph, ‘seeking only part-time work’ is work meeting any one of the
78 following conditions: (1) the individual is willing to work at least 20 hours per week; (2) the individual is available for a
79 number of hours per week that are comparable to the individual’s part-time work in the base period; or (3) the individual is
80 available for hours that are comparable to the individual’s work at the time of the most recent separation from
81 employment.”.

82 Section 10. Upon enactment, all sections of this legislation shall apply to new claims for unemployment insurance
83 benefits filed with an effective date of January 3, 2010 or later.

SYNOPSIS

Section 1 of this Act provides an alternate claim base period for individuals who have not earned sufficient wages in the first four of the last five completed calendar quarters base period to become monetarily eligible for unemployment insurance benefits. The alternate base period will be the four most recent completed calendar quarters immediately preceding the effective date of the claimant's unemployment insurance claim.

Section 2 of this Act clarifies that an individual's "family" means the individual's spouse, child under the age of 18, or parent.

Section 3 of this Act provides that an individual who quits work in order to accompany their spouse to a place from which it is impractical for the individual to commute and due to a change in location of their spouse's employment, will not be disqualified from the receipt of unemployment insurance benefits for this reason.

Section 4 of this Act provides that an individual, who quits work to care for their spouse, child under the age of 18, or parent with a verified illness or disability, will not be disqualified from the receipt of unemployment insurance benefits for this reason.

Section 5 of this Act provides that an individual who is discharged from work as the result of providing notice to their employer of the intent to quit work to accompany their spouse to a place from which it is impractical for such individual to commute and due to a change in location of the spouse's employment will not be disqualified from the receipt of unemployment insurance benefits for this reason.

Section 6 of this Act provides that an individual who is discharged from work as a result of the individual providing care for their spouse, child under the age of 18, or parent with a verified illness or disability will not be disqualified from the receipt of unemployment insurance benefits for this reason.

Section 7 of this Act provides that an individual, who is discharged from work due to circumstances directly resulting from the individual's experience of domestic violence, will not be disqualified from the receipt of unemployment insurance benefits for this reason.

Section 8 of this Act provides that an individual who refuses a referral to or offer of full-time work shall not be disqualified from the receipt of unemployment insurance benefits for this reason if the individual is permitted to seek only part-time work under the provisions of § 3315(3) of Title 19, Delaware Code.

Section 9 of this Act provides that no individual shall be determined ineligible for the receipt of unemployment insurance benefits for any week in which they seek only part-time work, if the majority of weeks of work in their unemployment insurance claim base period were in part-time employment.

Section 10 of this Act establishes the provisions of Sections 1, 2, 3, 4, 5, 6, 7, 8 and 9 shall apply to new claims filed for unemployment insurance benefits with an effective date of January 3, 2010 or later.

Upon enactment of this Act, pursuant to the provisions of The Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5, enacted February 17, 2009, the state will be eligible to apply for and receive \$21,868,398 from the federal government for Delaware's Unemployment Insurance Trust Fund in Calendar Year 2009.

DELAWARE: ATTACHMENT 2

Excerpt from Chapter 33, Title 19, Delaware UI Code re: Domestic Violence Prior to HB 170

§ 3314. Disqualification for benefits.

An individual shall be disqualified for benefits:

(1) For the week in which the individual left work voluntarily without good cause attributable to such work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount. However, if an individual has left work involuntarily because of illness, **no disqualification shall prevail** after the individual becomes able to work and available for work and meets all other requirements under this title, but the Department shall require a doctor's certificate to establish such availability or **if an individual has left work due to circumstances directly resulting from the individual's experience of domestic violence, as that term is defined in § 703A(a) of Title 13, no disqualification shall prevail.** An individual's leaving work shall be treated as due to circumstances directly resulting from the individual's experience of domestic violence if the leaving work resulted from: (i) the individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment; (ii) the individual's wish to relocate to another geographic area in order to avoid future domestic violence against the individual or the individual's family; or (iii) any other circumstance in which domestic violence causes the individual to reasonably believe that leaving work is necessary for the future safety of the individual or the individual's family. When determining whether an individual has experienced domestic violence for compensation purposes, the Division shall require the individual to provide documentation to the Division of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects. **All evidence of domestic violence experienced by an individual, including the individual's statement and any corroborating evidence shall not be disclosed by the Division of Unemployment Insurance unless consent for disclosure is given by the individual.** Wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's benefit wages in connection with §§ 3349-3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer. An individual who becomes unemployed solely as the result of completing a period of employment that was of a seasonal, durational, temporary or casual duration will not be considered as a matter of law to have left work voluntarily without good cause attributable to such work solely on the basis of the duration of such employment.