



New York State Department of Labor

David Paterson, *Governor*

M. Patricia Smith, *Commissioner*

April 9, 2009

Cheryl Atkinson
Administrator
Office of Workforce Security
200 Constitution Avenue NW
Room S-4231
Washington, DC 20210

Re: New York State Application for UI Modernization Funding

Dear Ms. Atkinson:

The New York State Department of Labor would like to apply for the first one-third of the Modernization Incentive Payments authorized in Section 2003(a) of Public Law 111-5, as per guidance document UIPL 14-09.

Section 527(2) of the New York State Labor Law sets forth an alternate base period qualifier for UI benefits. A copy is attached along with a copy of Section 520 of the New York State Labor Law, which defines the term "base period" as used in Section 527. I certify that the base period provision of state law is currently in effect. I also certify that the statute set forth above is permanent, not subject to sunset, and may only be amended or repealed through an act passed by the legislature and signed into law by the Governor. We intend that the majority of the funds will be used for payments of unemployment compensation for claimants; however, up to \$20 million may be used to pay unemployment compensation and employment service administrative costs in accordance with UIPL 14-09.

I certify that this application is being 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 regarding the attached, please contact John Gorevich at (518) 485-7970.

Sincerely,

A handwritten signature in blue ink that reads "Roger Bailie".

Roger Bailie

Attachments



LEXSTAT N.Y. LAB. LAW § 527(2)

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*** THIS SECTION IS CURRENT THROUGH CH. 642, 12/15/2008 ***

LABOR LAW
ARTICLE 18. UNEMPLOYMENT INSURANCE LAW
TITLE 2. DEFINITIONS

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NY CLS Labor § 527 (2008)

§ 527. Valid original claim

1. Basic condition. "Valid original claim" is a claim filed by a claimant who meets the following qualifications: (a) is able to work, and available for work; (b) is not subject to any disqualification or suspension under this article; (c) his previously established benefit year, if any, has expired; (d) has been paid remuneration by employers liable for contributions or for payments in lieu of contributions under this article, other than employers from whom the claimant lost employment under conditions which would be disqualifying pursuant to subdivision three of section five hundred ninety-three of this article, for employment during at least two calendar quarters of the base period, with remuneration of one and one-half times the high calendar quarter earnings within the base period and with at least one thousand six hundred dollars of such remuneration being paid during the high calendar quarter of such base period. For purposes of this section, the earnings in the high calendar quarter of the base period used in determining a valid original claim shall not exceed an amount equal to twenty-two times the maximum benefit rate as set forth in subdivision five of section five hundred ninety of this article for all individuals.

2. Alternate condition.

(a) An individual who is unable to file a valid original claim in accordance with subdivision one of this section, files a valid original claim by meeting the qualifications enumerated in paragraphs (a), (b) and (c) of subdivision one of this section and by having been paid remuneration by employers liable for contributions or for payments in lieu of contributions under this article, other than employers from whom the claimant lost employment under conditions which are disqualifying pursuant to subdivision three of section five hundred ninety-three of this article, for employment during at least two calendar quarters of the base period, with remuneration of one and one-half times the high calendar quarter earnings within the base period and with at least one thousand six hundred dollars of such remuneration being paid during the high calendar quarter of such base period. For purposes of this section, the earnings in the high calendar quarter of the base period used in determining a valid original claim shall not exceed an amount equal to twenty-two times the maximum benefit rate as set forth in subdivision five of section five hundred ninety of this article for all individuals.

(b) An individual who is able to file a valid original claim in accordance with subdivision one of this section, may make an application to the commissioner to determine his or her entitlement to benefits and benefit rate pursuant to paragraph (a) of this subdivision under the following conditions:

(i) The claimant must file such application within ten days of the date the monetary determination was mailed by the department.

(ii) In those circumstances where a wage data report in relation to the alternate condition is not due or has not been received, the claimant must provide proof of remuneration paid for such quarter to the commissioner's satisfaction in order for the claimant's application to be considered.

(iii) Under those circumstances where such application results in the claimant being able to file a valid original claim under the basic condition and the alternate condition, the claimant may select the condition to be utilized.

3. Disability. In the case of a claimant who did not file a valid original claim solely because the claimant was not paid sufficient remuneration and who received workers' compensation payments or any benefits paid pursuant to the volunteer firefighters' benefit law during the base period specified in subdivision one of section five hundred twenty of this article, said period shall be extended. The term of the extension shall be equivalent to the number of calendar quarters during which the claimant received such payments, but shall not exceed two calendar quarters.

4. General condition. A valid original claim may be filed only in a week in which the claimant has at least one effective day of unemployment.

5. Utilization of wage credits. Remuneration used to establish a valid original claim pursuant to subdivision one, two or three of this section, may not be considered for the purpose of establishing a subsequent valid original claim except as provided by section five hundred twenty-eight of this article.

6. Work requirement. An individual who has filed a previous valid original claim pursuant to this section must have worked in employment and been paid remuneration for such work since the beginning of such previous claim in an amount equal to at least five times the claimant's weekly benefit rate in order to be able to file a subsequent valid original claim.

HISTORY: Add, L 1951, ch 645, § 4; amd, L 1958, ch 387, § 2, L 1968, ch 832, § 2, eff Aug 26, 1968.

Former § 527, add, L 1935, ch 468, § 1; repealed, L 1942, ch 640.

Sub 1, amd, L 1977, ch 675, § 22, L 1983, ch 415, § 1, L 1998, ch 589, § 5, L 2000, ch 5, § 2 (see 2000 note below), L 2003, ch 413, § 1, eff Aug 26, 2003.

Sub 2, add, L 1958, ch 387, § 2; amd, L 1977, ch 675, § 22, L 1983, ch 415, § 1, L 1998, ch 589, § 5, eff April 1, 1999.

Sub 2, opening par, formerly part of entire sub 2, so designated sub 2, opening par, L 1998, ch 589, § 5, eff April 1, 1999.

Sub 2, par (a), add, L 1998, ch 589, § 5; amd, L 2000, ch 5, § 2, eff April 15, 2000 (see 2000 note below).

Sub 2, par (b), add, L 1998, ch 589, § 5, eff April 1, 1999.

Sub 3, add, L 1984, ch 381, § 1; amd, L 1998, ch 589, § 5, eff April 1, 1999.

Former sub 3, redesignated sub 4, L 1984, ch 381, § 1, eff Sept 17, 1984.

Sub 4, formerly sub 3, so designated sub 4, L 1984, ch 381, § 1, eff Sept 17, 1984.

Sub 5, add, L 1998, ch 589, § 6, eff April 1, 1999.

Sub 6, add, L 1998, ch 589, § 6, eff April 1, 1999.



LEXSTAT N.Y. LAB. LAW § 520

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LABOR LAW
ARTICLE 18. UNEMPLOYMENT INSURANCE LAW
TITLE 2. DEFINITIONS

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NY CLS Labor § 520 (2008)

§ 520. Base period

A claimant's "base period" is one of the following:

1. For the purpose of subdivision one of section five hundred twenty-seven of this article, the term base period shall mean the first four of the last five completed calendar quarters ending with the week immediately preceding the filing of a valid original claim.

2. For the purpose of paragraph (a) of subdivision two of section five hundred twenty-seven of this article, the term base period shall mean the last four completed calendar quarters ending with the week immediately preceding the filing of a valid original claim.

HISTORY: Add, L 1944, ch 705, § 1, L 1944, ch 703, § 1; amd, L 1951, ch 645, § 1, eff June 4, 1951.

Former § 520, add, L 1935, ch 468, § 1; amd, L 1939, ch 662, § 19, L 1941, ch 898, § 1, L 1942, ch 589, § 1; repealed, L 1944, ch 705, § 1.

Opening par, formerly entire section, so designated and amd, L 1998, ch 589, § 3, eff April 1, 1999.

Sub 1, add, L 1998, ch 589, § 3, eff April 1, 1999.

Sub 2, add, L 1998, ch 589, § 3, eff April 1, 1999.