

HOUSE BILL NO. 4373

April 11, 2023, Introduced by Reps. Lightner, Outman, Bezotte, Kunse, Schuette, Martin, Beson, Kuhn, Hall, Alexander, Bollin, DeBoyer, Harris and Meerman and referred to the Committee on Ethics and Oversight.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 32 and 33 (MCL 421.32 and 421.33), section 32 as amended by 2020 PA 258 and section 33 as amended by 2011 PA 269, and by adding section 32g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32. (a) Claims for benefits shall be made pursuant to
2 regulations prescribed by the unemployment agency. The unemployment
3 agency shall designate representatives who shall ~~promptly~~ examine

1 claims and make a determination on the facts **within the time period**
2 **prescribed in section 32g**. The unemployment agency may establish
3 rules providing for the examination of claims, the determination of
4 the validity of the claims, and the amount and duration of benefits
5 to be paid. The claimant and other interested parties shall be
6 promptly notified of the determination and the reasons for the
7 determination.

8 (b) The unemployment agency shall mail to the claimant, to
9 each base period employer or employing unit, and to the separating
10 employer or employing unit, a monetary determination. The monetary
11 determination shall notify each of these employers or employing
12 units that the claimant has filed an application for benefits and
13 **of** the amount the claimant reported as earned with the separating
14 employer or employing unit, and shall state the name of each
15 employer or employing unit in the base period and the name of the
16 separating employer or employing unit. The monetary determination
17 shall also state the claimant's weekly benefit rate, the amount of
18 base period wages paid by each base period employer, the maximum
19 benefit amount that could be charged to each employer's account or
20 experience account, and the reason for separation reported by the
21 claimant. The monetary determination shall also state whether the
22 claimant is monetarily eligible to receive unemployment benefits.
23 Except for separations under section 29(1)(a), no further
24 reconsideration of a separation from any base period employer will
25 be made unless the base period employer notifies the unemployment
26 agency of a possible disqualifying separation within 30 days of the
27 separation in accordance with this subsection. Charges to the
28 employer and payments to the claimant shall be as described in
29 section 20(a). New, additional, or corrected information received

1 by the unemployment agency more than 10 days after mailing the
2 monetary determination shall be considered a request for
3 reconsideration by the employer of the monetary determination and
4 shall be reviewed as provided in section 32a.

5 (c) For the purpose of determining a claimant's nonmonetary
6 eligibility and qualification for benefits, if the claimant's most
7 recent base period or benefit year separation was for a reason
8 other than the lack of work, then a determination shall be issued
9 concerning that separation to the claimant and to the separating
10 employer. If a claimant is not disqualified based on his or her
11 most recent separation from employment and has satisfied the
12 requirements of section 29, the unemployment agency shall issue a
13 nonmonetary determination as to that separation only. If a claimant
14 is not disqualified based on his or her most recent separation from
15 employment and has not satisfied the requirements of section 29,
16 the unemployment agency shall issue 1 or more nonmonetary
17 determinations necessary to establish the claimant's qualification
18 for benefits based on any prior separation in inverse chronological
19 order. The unemployment agency shall consider all base period
20 separations involving disqualifications under section 29(1) (h),
21 (i), (j), (k), (m), or (n) in determining a claimant's nonmonetary
22 eligibility and qualification for benefits. An employer may
23 designate in writing to the unemployment agency an individual or
24 another employer or an employing unit to receive any notice
25 required to be given by the unemployment agency to that employer or
26 to represent that employer in any proceeding before the
27 unemployment agency as provided in section 31. Notwithstanding any
28 other provision of this act, beginning May 1, 2020, and until ~~the~~
29 ~~effective date of the amendatory act that added this subsection,~~

1 **October 20, 2020**, in determining a claimant's nonmonetary
2 eligibility to qualify for benefits, the unemployment agency shall
3 not issue a determination with respect to the claimant's separation
4 from a base period or benefit year employer other than the
5 separating employer, and the unemployment agency shall consider the
6 claimant to have satisfied the requirements of section 29(2) and
7 (3).

8 (d) If the unemployment agency requests additional monetary or
9 nonmonetary information from an employer or employing unit and the
10 unemployment agency fails to receive a written response from the
11 employer or employing unit within 10 calendar days after the date
12 of mailing the request for information, the unemployment agency
13 shall make a determination based upon the available information at
14 the time the determination is made. Charges to the employer and
15 payments to the claimant shall be as described in section 20(a).

16 (e) The claimant or interested party may file an application
17 with an office of the unemployment agency for a redetermination in
18 accordance with section 32a.

19 (f) The issuance of each benefit check shall be considered a
20 determination by the unemployment agency that the claimant
21 receiving the check was covered during the compensable period, and
22 eligible and qualified for benefits. A chargeable employer, upon
23 receipt of a listing of the check as provided in section 21(a), may
24 protest by requesting a redetermination of the claimant's
25 eligibility or qualification as to that period and a determination
26 as to later weeks and benefits still unpaid that are affected by
27 the protest. Upon receipt of the protest or request, the
28 unemployment agency shall investigate and redetermine whether the
29 claimant is eligible and qualified as to that period. If, upon the

1 redetermination, the claimant is found ineligible or not qualified,
2 the unemployment agency shall proceed as described in section 62.
3 In addition, the unemployment agency shall investigate and
4 determine whether the claimant obtained benefits for 1 or more
5 preceding weeks within the series of consecutive weeks that
6 includes the week covered by the redetermination and, if so, shall
7 proceed as described in section 62 as to those weeks.
8 Notwithstanding any other provision of this act, for benefits
9 charged after March 15, 2020 but before April 1, 2021, an employer
10 has 1 year after the date a benefit payment is charged against the
11 employer's account to protest that charge.

12 (g) If a claimant commences to file continued claims through a
13 different state claim office in this state or elsewhere, the
14 unemployment agency promptly shall issue written notice of that
15 fact to the chargeable employer.

16 (h) If a claimant refuses an offer of work, or fails to apply
17 for work of which the claimant has been notified, as provided in
18 section 29(1)(c) or (e), the unemployment agency shall promptly
19 make a written determination as to whether or not the refusal or
20 failure requires disqualification under section 29. Notice of the
21 determination, specifying the name and address of the employing
22 unit offering or giving notice of the work and of the chargeable
23 employer, shall be sent to the claimant, the employing unit
24 offering or giving notice of the work, and the chargeable employer.

25 (i) The unemployment agency shall issue a notification to the
26 claimant of claimant rights and responsibilities ~~within~~**not later**
27 **than** 2 weeks after the initial benefit payment on a claim and 6
28 months after the initial benefit payment on the claim. If the
29 claimant selected a preferred form of communication, the

1 notification must be conveyed by that form. Issuing the
2 notification must not delay or interfere with the claimant's
3 benefit payment. The notification must contain clear and
4 understandable information pertaining to all of the following:

5 (i) Determinations as provided in section 62.

6 (ii) Penalties and other sanctions as provided in this act.

7 (iii) Legal right to protest the determination and the right to
8 appeal through the administrative hearing system.

9 (iv) Other information needed to understand and comply with
10 agency rules and regulations not specified in this section.

11 **Sec. 32g. (1) Notwithstanding any other provision of this act,**
12 **and except as otherwise provided in subsection (2), the**
13 **unemployment agency shall examine a claim for benefits and make a**
14 **determination on the facts not later than 15 calendar days after it**
15 **receives the claim for benefits.**

16 (2) For a claim for benefits received during an exigent
17 period, the unemployment agency shall examine the claim for
18 benefits and make a determination on the facts not later than 20
19 calendar days after it receives the claim for benefits.

20 (3) If the unemployment agency is unable to make a
21 determination within the time period prescribed in subsection (1)
22 or (2) because the claimant or employer did not provide the
23 unemployment agency with the necessary information as required
24 under this act, the unemployment agency shall immediately notify
25 the claimant that it was unable to make a determination and of the
26 reasons why it was unable to make a determination.

27 (4) As used in this section:

28 (a) "Exigent period" means a group of 1 or more consecutive
29 calendar weeks that immediately follows a measuring week if the

1 total number of claims for benefits received by the unemployment
2 agency in each calendar week in the group is at least 50% greater
3 than the total number of claims for benefits received by the
4 unemployment agency in the measuring week.

5 (b) "Measuring week" means a calendar week in which the total
6 number of claims for benefits received by the unemployment agency
7 is less than 50% of the total number of claims for benefits
8 received by the unemployment agency in the immediately following
9 calendar week.

10 Sec. 33. (1) An appeal from a redetermination issued by the
11 **unemployment** agency in accordance with section 32a or a matter
12 transferred for hearing and decision in accordance with section 32a
13 shall be referred to the Michigan administrative hearing system for
14 assignment to an administrative law judge. If the **unemployment**
15 agency transfers a matter, or an interested party requests a
16 hearing before an administrative law judge on a redetermination,
17 all matters pertinent to the claimant's benefit rights or to the
18 liability of the employing unit under this act shall be referred to
19 the administrative law judge. The administrative law judge shall
20 afford all interested parties a reasonable opportunity for a fair
21 hearing and, unless the appeal is withdrawn, the administrative law
22 judge shall decide the rights of the interested parties and shall
23 notify the interested parties of the decision, setting forth the
24 findings of fact upon which the decision is based, together with
25 the reasons for the decision. With respect to an appeal from a
26 denial of redetermination, if the administrative law judge finds
27 that there was good cause for the issuance of a redetermination,
28 the denial shall be a redetermination affirming the determination
29 and the appeal from the denial shall be an appeal from that

1 affirmance. Unless an interested party would be unduly prejudiced,
2 an administrative law judge may consolidate cases involving the
3 same or substantially similar evidence or issues, hear the
4 consolidated cases at the same date and time, create a single
5 record of proceedings, and consider evidence introduced in 1 of
6 those cases in the other cases. If the appellant fails to appear or
7 prosecute the appeal, the administrative law judge may dismiss the
8 proceedings or take other action considered advisable. An
9 administrative law judge may, either upon application for rehearing
10 by an interested party or on his or her own motion, proceed to
11 rehear, affirm, modify, set aside, or reverse a prior decision on
12 the basis of the evidence previously submitted in the case, or on
13 the basis of additional evidence. The application or motion shall
14 be made within 30 days after the date of mailing of the decision.
15 The administrative law judge may, for good cause, reopen and review
16 a prior decision and issue a new decision after the 30-day appeal
17 period has expired. A request for review shall be made within 1
18 year after the date of mailing of the prior decision. An
19 administrative law judge shall not participate in a case in which
20 he or she has a direct or indirect interest.

21 (2) Within 30 days after the mailing of a copy of a decision
22 of the administrative law judge or of a denial of a motion for
23 rehearing, an interested party may file an appeal to the Michigan
24 compensation appellate commission, and unless such an appeal is
25 filed, the decision or denial by the administrative law judge is
26 final.

27 (3) **When an administrative law judge provides notice of a**
28 **hearing to the interested parties in a matter, the administrative**
29 **law judge shall also provide to the interested parties the items**

1 the administrative law judge received under section 32e regarding
2 the matter. If the administrative law judge receives a new item or
3 an updated item, the administrative law judge shall immediately
4 provide the new item or updated item to all interested parties.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No. ____ or House Bill No. 4374 (request no.
7 00190'23) of the 102nd Legislature is enacted into law.