

**SUBSTITUTE FOR
SENATE BILL NO. 962**

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 28, 28d, 29a, 32a, 33, and 62 (MCL 421.28, 421.28d, 421.29a, 421.32a, 421.33, and 421.62), section 28 as amended by 2022 PA 18, section 28d as amended and section 29a as added by 2020 PA 258, section 32a as amended by 2017 PA 232, section 33 as amended by 2011 PA 269, and section 62 as amended by 2017 PA 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) An unemployed individual is eligible to receive
2 benefits with respect to any week only if the unemployment
3 **insurance** agency finds all of the following:

4 (a) The individual registered for work pursuant to subsection

1 ~~(10)~~**(11)** after the individual applied for benefits and within the
2 time period prescribed by the unemployment agency, has continued to
3 report pursuant to unemployment **insurance** agency rules, and is
4 actively engaged in seeking work. The requirements that the
5 individual must report, must register for work, must be available
6 to perform suitable full-time work, and must seek work may be
7 waived by the unemployment **insurance** agency if the individual is
8 laid off and the employer that laid the individual off notifies the
9 unemployment **insurance** agency in writing or by computerized data
10 exchange that the layoff is temporary and that work is expected to
11 be available for the individual within a declared number of days,
12 not to exceed 45 calendar days, plus up to an additional 90
13 calendar days as provided for in subsection ~~(11)~~**(12)**, following
14 the last day the individual worked. Except as otherwise provided in
15 subsection ~~(12)~~**(13)**, this waiver is not effective unless the
16 notification from the employer is received by the unemployment
17 **insurance** agency before the individual has completed ~~his or her~~**the**
18 **individual's** first compensable week following layoff. If the
19 individual is not recalled within the specified period, the waiver
20 ceases to be operative with respect to that layoff. Except for a
21 period of disqualification, the requirement that the individual
22 ~~shall~~ seek work may be waived by the unemployment **insurance** agency
23 if it finds that suitable work is unavailable both in the locality
24 where the individual resides and in those localities in which the
25 individual has earned wages during or after the base period. This
26 waiver does not apply to a claimant enrolled and attending classes
27 as a full-time student. An individual is considered to have
28 satisfied the requirement of personal reporting at an employment
29 office, as applied to a week in a period during which the

1 requirements of registration and seeking work have been waived by
2 the unemployment **insurance** agency pursuant to this subdivision, if
3 the individual has satisfied the personal reporting requirement
4 with respect to a preceding week in that period and the individual
5 has reported with respect to the week by mail pursuant to the rules
6 promulgated by the unemployment agency.

7 (b) The individual has made a claim for benefits pursuant to
8 section 32 and has provided the unemployment **insurance** agency with
9 all of the following:

10 (i) ~~His or her~~ **The individual's** Social Security number.

11 (ii) ~~His or her~~ **The individual's** driver license number, and the
12 state that issued the license, or state identification card number,
13 and the state that issued the identification card, or copies of the
14 acceptable documents as provided in the Form I-9.

15 (iii) If the unemployment **insurance** agency has requested them,
16 copies of the acceptable documents as provided in the Form I-9. As
17 used in this subdivision, "Form I-9" means the employment
18 verification form that fulfills the employment verification
19 obligations under 8 CFR 274a.2.

20 (c) The individual is able and available to appear at a
21 location of the unemployment agency's choosing for evaluation of
22 eligibility for benefits, if required, and to perform suitable
23 full-time work of a character that the individual is qualified to
24 perform by past experience or training, which is of a character
25 generally similar to work for which the individual has previously
26 received wages, and for which the individual is available, full
27 time, either at a locality at which the individual earned wages for
28 insured work during ~~his or her~~ **the individual's** base period or at a
29 locality where it is found by the unemployment **insurance** agency

1 that such work is available. Notwithstanding any other provision of
2 this act, for all claims filed after March 1, 2020, and established
3 under the federal pandemic unemployment assistance program, with
4 respect to the able and available requirements, an individual must
5 be able and available to perform suitable full- or part-time work.
6 An individual is considered unavailable for work under any of the
7 following circumstances:

8 (i) The individual fails during a benefit year to notify or
9 update a chargeable employer with telephone, email, or other
10 information sufficient to allow the employer to contact the
11 individual about available work.

12 (ii) The individual fails, without good cause, to respond to
13 the unemployment **insurance** agency within 14 calendar days of the
14 later of the mailing of a notice to the address of record requiring
15 the individual to contact the unemployment **insurance** agency or of
16 the leaving of a telephone message requesting a return call and
17 providing a return name and telephone number on an automated
18 answering device or with an individual answering the telephone
19 number of record.

20 (iii) Unless the claimant shows good cause for failure to
21 respond, mail sent to the individual's address of record is
22 returned as undeliverable and the telephone number of record has
23 been disconnected or changed or is otherwise no longer associated
24 with the individual.

25 (d) In the event of the death of an individual's immediate
26 family member, the eligibility requirements of availability and
27 reporting are waived for the day of the death and for 4 consecutive
28 calendar days ~~thereafter.~~ **after the day of the death.** As used in
29 this subdivision, "immediate family member" means a spouse, child,

1 stepchild, adopted child, grandchild, parent, grandparent, brother,
2 or sister of the individual or ~~his or her~~ **the individual's** spouse.
3 Immediate family member includes the spouse of any of the
4 individuals specified in the previous sentence.

5 (e) The individual participates in reemployment services, such
6 as job search assistance services, if the individual has been
7 determined or redetermined by the unemployment **insurance** agency to
8 be likely to exhaust regular benefits and need reemployment
9 services pursuant to a profiling system established by the
10 unemployment agency.

11 (2) The unemployment **insurance** agency may authorize an
12 individual with an unexpired benefit year to pursue vocational
13 training or retraining only if the unemployment **insurance** agency
14 finds all of the following:

15 (a) Reasonable opportunities for employment in occupations for
16 which the individual is fitted by training and experience do not
17 exist in the locality in which the individual is claiming benefits.

18 (b) The vocational training course relates to an occupation or
19 skill for which there are, or are expected to be in the immediate
20 future, reasonable employment opportunities.

21 (c) The training course has been approved by a local advisory
22 council on which both management and labor are represented, or if
23 there is no local advisory council, by the unemployment agency.

24 (d) The individual has the required qualifications and
25 aptitudes to complete the course successfully.

26 (e) The vocational training course has been approved by the
27 state board of education and is maintained by a public or private
28 school or by the unemployment agency.

29 (3) Notwithstanding any other provision of this act, an

1 otherwise eligible individual is not ineligible for benefits
2 because ~~he or she~~ **the individual** is participating in training with
3 the approval of the unemployment agency. For each week that the
4 unemployment **insurance** agency finds that an individual who is
5 claiming benefits under this act and who is participating in
6 training with the approval of the unemployment agency, is
7 satisfactorily pursuing an approved course of vocational training,
8 the unemployment **insurance** agency shall waive the requirements that
9 ~~he or she~~ **the individual** be available for work and be seeking work
10 as prescribed in subsection (1) (a) and (c), and shall find good
11 cause for ~~his or her~~ **the individual's** failure to apply for suitable
12 work, report to a former employer for an interview concerning
13 suitable work, or accept suitable work as required in section
14 29(1) (c), (d), and (e).

15 (4) Notwithstanding any other provisions of this act, an
16 otherwise eligible individual must not be denied benefits solely
17 because the individual is in training approved under section
18 236(a) (1) of the trade act of 1974, 19 USC 2296, nor shall the
19 individual be denied benefits by reason of leaving work to enter
20 such training if the work left is not suitable employment.
21 Furthermore, an otherwise eligible individual must not be denied
22 benefits because of the application to any such week in training of
23 provisions of this act, or any applicable federal unemployment
24 compensation law, relating to availability for work, active search
25 for work, or refusal to accept work. For purposes of this
26 subsection, "suitable employment" means, with respect to an
27 individual, work of a substantially equal or higher skill level
28 than the individual's past adversely affected employment, as
29 defined for purposes of the trade act of 1974, 19 USC 2101 to

1 2497b, and wages for that work at not less than 80% of the
2 individual's average weekly wage as determined for the purposes of
3 the trade act of 1974, 19 USC 2101 to 2497b.

4 (5) Except as otherwise provided in ~~subsection~~**subsections** (6)
5 **and (7)**, for purposes of this section, for benefit years beginning
6 on or after January 1, 2013, to be actively engaged in seeking
7 work, an individual must conduct a systematic and sustained search
8 for work in each week the individual is claiming benefits, using
9 any of the following methods to report the details of the work
10 search:

11 (a) Reporting at monthly intervals on the unemployment
12 agency's online reporting system the name of each employer and
13 physical or online location of each employer where work was sought
14 and the date and method by which work was sought with each
15 employer.

16 (b) Filing a written report with the unemployment **insurance**
17 agency by mail or facsimile transmission not later than the end of
18 the fourth calendar week after the end of the week in which the
19 individual engaged in the work search, on a form approved by the
20 unemployment agency, indicating the name of each employer and
21 physical or online location of each employer where work was sought
22 and the date and method by which work was sought with each
23 employer.

24 (c) Appearing at least monthly in person at a Michigan works
25 agency office to report the name and physical or online location of
26 each employer where the individual sought work during the previous
27 month and the date and method by which work was sought with each
28 employer.

29 (6) ~~For~~**Except as otherwise provided in subsection (7), for**

1 purposes of this section, beginning on April 2, 2020, to be
2 actively engaged in seeking work, an individual must conduct a
3 systematic and sustained search for work in each week the
4 individual is claiming benefits and must report to the unemployment
5 **insurance** agency the details of the work search at least once every
6 2 weeks or, if the unemployment **insurance** agency prescribes a
7 shorter reporting period, the reporting period prescribed by the
8 unemployment agency. An individual may conduct a systematic and
9 sustained search for work by doing any of the following:

10 (a) Using resources available at a Michigan works agency
11 office to do any of the following:

12 (i) Participate in reemployment services and eligibility
13 assessment activities.

14 (ii) Identify the skills the individual possesses that are
15 consistent with target or demand occupations in the local workforce
16 development area.

17 (iii) Obtain job postings and seek employment for suitable
18 positions needed by local employers.

19 (b) Attending job search seminars or other employment
20 workshops that offer instruction in improving an individual's
21 skills for finding and obtaining employment.

22 (c) Creating a user profile on a professional networking site
23 or using an online career tool. Creating duplicate user profiles or
24 resubmitting or reuploading the same resume to the same
25 professional networking site does not satisfy the requirements of
26 this subdivision.

27 (d) Applying for an available position with, submitting a
28 resume to, or interviewing with employers. Applying for the same
29 position within a 4-week period or contacting an employer to

1 determine whether a position is available does not satisfy the
2 requirements of this subdivision, unless the individual uses ~~his or~~
3 ~~her~~ **the individual's** union hiring hall to conduct a search for
4 work.

5 (e) Registering for work with a private employment agency or,
6 if it is available to the individual in ~~his or her~~ **the individual's**
7 occupation or profession, the placement facility of a school,
8 college, or university.

9 (f) Taking an examination that is required for a position in
10 the state civil service.

11 **(7) For purposes of this section, beginning January 1, 2025,**
12 **an individual meets the requirement to conduct a systemic and**
13 **sustained search for work under subsection (6) if the individual**
14 **does any of the activities listed under subsection (6) (a) to (f)**
15 **not fewer than 3 times in each week the individual is claiming**
16 **benefits.**

17 **(8) ~~(7)~~**—The work search conducted by the claimant is subject
18 to audit by the unemployment agency.

19 **(9) ~~(8)~~**—The unemployment **insurance** agency shall request but
20 shall not require an individual who is applying for benefits to
21 submit ~~his or her~~ **the individual's** base period employer's
22 unemployment **insurance** agency account number and federal employer
23 identification number.

24 **(10) ~~(9)~~**—The unemployment **insurance** agency shall use all of
25 the documentation and information provided by an individual
26 applying for benefits to verify the identity of the individual
27 before making an initial payment on the individual's claim.

28 **(11) ~~(10)~~**—An individual must register for work as required
29 under subsection (1) (a) by registering with a Michigan works

1 agency.

2 **(12)** ~~(11)~~—The unemployment **insurance** agency may extend a
3 waiver described in subsection (1) (a) beyond 45 calendar days, but
4 not for more than an additional 90 calendar days, if, before the
5 end of the specified period of the waiver, the employer notifies
6 the unemployment **insurance** agency in writing or by computerized
7 data exchange that the layoff is an extended layoff and is the
8 result of 1 or more of the following:

9 (a) The retooling of the employer's equipment.

10 (b) A parts shortage.

11 (c) A temporary production volume adjustment.

12 **(13)** ~~(12)~~—If an individual is laid off because of an extended
13 layoff described in subsection ~~(11)~~ **(12)** that existed on May 31,
14 2021, the requirements that the individual must report, must
15 register for work, must be available to perform suitable full-time
16 work, and must seek work may be waived by the unemployment
17 **insurance** agency as described in subsection (1) (a) if, before July
18 16, 2021, the individual's employer notifies the unemployment
19 **insurance** agency pursuant to ~~under~~ subsection ~~(11)~~ **(12)** that the
20 individual was laid off because of an extended layoff described in
21 subsection ~~(11)~~ **(12)**. The specified period of a waiver granted
22 under this subsection begins on May 31, 2021.

23 Sec. 28d. (1) The unemployment **insurance** agency shall approve
24 a shared-work plan only if the plan meets all of the following
25 requirements:

26 (a) The shared-work plan applies to 1 affected unit.

27 (b) All employees in the affected unit are participating
28 employees, except that, until March 31, 2021, an employee whose
29 hours of work per week determined under subdivision (e) are 40 or

1 more hours must not be a participating employee.

2 (c) There are no fewer than 2 participating employees,
3 determined without regard to corporate officers.

4 (d) The participating employees are identified by name and
5 Social Security number.

6 (e) The number of hours a participating employee will work
7 each week during the effective period of the shared-work plan is
8 the number of the employee's normal weekly hours of work reduced by
9 the reduction percentage.

10 (f) The plan includes an estimate of the number of employees
11 who would have been laid off if the plan were not implemented.

12 (g) The plan indicates the manner in which the employer will
13 give advance notice, if feasible, to an employee whose hours of
14 work per week under the plan will be reduced.

15 (h) As a result of a decrease in the number of hours worked by
16 each participating employee, there is a corresponding reduction in
17 wages.

18 (i) The shared-work plan does not affect the fringe benefits
19 of any participating employee.

20 (j) The specified effective period of the shared-work plan is
21 52 consecutive weeks or less and the benefits payable under the
22 shared-work plan will not exceed 20 times the weekly benefit amount
23 for each participating employee, calculated without regard to any
24 existing benefit year.

25 (k) The reduction percentage satisfies the requirements of
26 subsection (2).

27 (2) The reduction percentage under an approved shared-work
28 plan ~~shall~~**must** meet all of the following requirements:

29 (a) The reduction percentage ~~shall~~**must** be ~~no less than 15%~~

1 ~~and no more than 45% or, until March 31, 2021, no~~ **not** less than 10%
 2 and ~~no~~ **not** more than 60%.

3 (b) The reduction percentage ~~shall~~ **must** be the same for all
 4 participating employees.

5 (c) The reduction percentage ~~shall~~ **must** not change during the
 6 period of the shared-work plan unless the plan is modified in
 7 accordance with section 28i.

8 Sec. 29a. (1) Notwithstanding any other provision of this act,
 9 ~~subject to subsection (5),~~ an otherwise eligible individual, as
 10 described in section 29(1) (a) (iv), is not disqualified from
 11 receiving benefits if the individual demonstrates to the commission
 12 that the reason for the individual's leaving work is due to
 13 domestic violence, including 1 or more of the following:

14 (a) The individual's reasonable fear of future domestic
 15 violence at or en route to or from the individual's place of
 16 employment.

17 (b) The individual's need to relocate to another geographic
 18 area to avoid future domestic violence.

19 (c) The individual's need to address the physical,
 20 psychological, or legal effects of domestic violence.

21 (d) The individual's need to leave employment as a condition
 22 of receiving services or shelter from an agency that provides
 23 support services or shelter to victims of domestic violence.

24 (e) The individual's reasonable belief that termination of
 25 employment is necessary for the future safety of the individual or
 26 the individual's family because of domestic violence.

27 (2) An individual may demonstrate to the unemployment
 28 **insurance** agency the existence of domestic violence by providing 1
 29 or more documents, including, but not limited to, the following:

1 (a) A restraining order or other documentation of equitable
2 relief issued by a court of competent jurisdiction in a domestic
3 violence case.

4 (b) A police record documenting domestic violence.

5 (c) Documentation that the perpetrator of the domestic
6 violence against the individual making a claim for benefits under
7 this act has been convicted of a crime involving domestic violence.

8 (d) Medical documentation of domestic violence.

9 (e) A statement provided on business or organization
10 letterhead by a counselor, social worker, health worker, member of
11 the clergy, shelter worker, attorney, or other professional who has
12 assisted the individual in addressing the effects of the domestic
13 violence on the individual or the individual's family.

14 (3) The unemployment **insurance** agency shall not disclose
15 evidence of domestic violence experienced by an individual,
16 including the individual's statement or corroborating evidence.

17 (4) As used in this section:

18 (a) "Domestic violence" means any of the following that are
19 not acts of self-defense:

20 (i) Causing or attempting to cause physical or mental harm to a
21 family or household member.

22 (ii) Placing a family or household member in fear of physical
23 or mental harm.

24 (iii) Causing or attempting to cause a family or household
25 member to engage in involuntary sexual activity by force, threat of
26 force, or duress.

27 (iv) Engaging in activity toward a family or household member
28 that would cause a reasonable person to feel terrorized,
29 frightened, intimidated, threatened, harassed, or molested.

1 (b) "Family or household member" includes any of the
2 following:

3 (i) A spouse or former spouse.

4 (ii) An individual with whom the person resides or has resided.

5 (iii) An individual with whom the person has or has had a dating
6 relationship.

7 (iv) An individual with whom the person is or has engaged in a
8 sexual relationship.

9 (v) An individual to whom the person is related or was
10 formerly related by marriage.

11 (vi) An individual with whom the person has a child in common.

12 (vii) The minor child of an individual described in
13 subparagraphs (i) to (vi).

14 ~~(5) This section does not apply after March 31, 2021.~~

15 Sec. 32a. (1) Upon application by an interested party for
16 review of a determination, upon request for transfer to an
17 administrative law judge for a hearing filed with the unemployment
18 agency ~~within~~ **not more than** 30 days after the mailing or personal
19 service of a notice of determination, or upon the unemployment
20 **insurance** agency's own motion within that 30-day period, the
21 unemployment agency shall review any determination. After review,
22 the unemployment **insurance** agency shall in its discretion issue a
23 redetermination affirming, modifying, or reversing the prior
24 determination and stating the reasons for the redetermination, or
25 may transfer the matter to an administrative law judge for a
26 hearing. If the unemployment agency issues a redetermination, it
27 shall promptly notify the interested parties of the
28 redetermination. The redetermination is final unless ~~within~~ **not**
29 **more than** 30 days after the mailing or personal service of a notice

1 of the redetermination an appeal is filed with the unemployment
2 agency for a hearing on the redetermination before an
3 administrative law judge pursuant to section 33.

4 (2) The unemployment **insurance** agency shall, for good cause,
5 including an administrative clerical error or evidence produced by
6 an interested party showing that a prior determination or
7 redetermination was not sent to the interested party's correct
8 address or an address ascertained under subsection (5), reconsider
9 a prior determination or redetermination after the 30-day period
10 has expired and after reconsideration issue a redetermination
11 affirming, modifying, or reversing the prior determination or
12 redetermination, or transfer the matter to an administrative law
13 judge for a hearing. A reconsideration ~~shall~~**must** not be made
14 unless the request is filed with the unemployment **insurance** agency,
15 or reconsideration is initiated by the unemployment agency with
16 notice to the interested parties, ~~within~~**not more than** 1 year after
17 the date of mailing or personal service of the original
18 determination on the disputed issue or, if the original
19 determination involved a finding of fraud, ~~within~~**not more than** 3
20 years after the date of mailing or personal service of the original
21 determination.

22 (3) If an interested party fails to file a protest within the
23 30-day period and the unemployment **insurance** agency for good cause
24 reconsiders a prior determination or redetermination and issues a
25 redetermination, a disqualification, or an ineligibility imposed
26 thereunder, other than an ineligibility imposed due to receipt of
27 retroactive pay, the redetermination, disqualification, or
28 ineligibility does not apply to a compensable period for which
29 benefits were paid or are payable unless the benefits were obtained

1 as a result of an administrative clerical error, a false statement,
2 or a nondisclosure or misrepresentation of a material fact by the
3 claimant. However, the redetermination is final unless ~~within~~**not**
4 **more than** 30 days after the date of mailing or personal service of
5 the notice of redetermination an appeal is filed for a hearing on
6 the redetermination before an administrative law judge pursuant to
7 section 33.

8 (4) In addition to the transfer provisions in subsections (1)
9 and (2), both of the following apply:

10 (a) If both the claimant and the employer agree, the matter
11 may be transferred directly to an administrative law judge in a
12 case involving the payment of unemployment benefits.

13 (b) If both the unemployment **insurance** agency and the employer
14 agree, the matter may be transferred directly to an administrative
15 law judge in a case involving unemployment contributions or
16 reimbursements in lieu of contributions.

17 (5) If a determination or redetermination includes a finding
18 that an interested party committed fraud, the unemployment
19 **insurance** agency shall, in addition to sending the determination or
20 redetermination to the interested party's address of record,
21 ascertain from the department of state, the department of treasury,
22 and the United States Postal Service other known mailing addresses
23 of the interested party and send the determination or
24 redetermination to the most recent address.

25 (6) A claimant, employer, or interested party shall, during a
26 benefit year, notify the unemployment agency of a change in its
27 mailing address.

28 (7) **Upon filing an appeal for a hearing on a redetermination**
29 **issued under subsection (1), an interested party may include a**

1 request for consolidation of another matter to be reviewed at a
2 hearing as described in section 33. Upon receipt of the request for
3 consolidation, the unemployment insurance agency shall consolidate
4 all matters for transfer to an administrative law judge for a
5 hearing on the matters listed in the request for consolidation. A
6 matter listed on the request for consolidation must be consolidated
7 if 1 of the following conditions is met:

8 (a) An application for review of a determination for the
9 listed matter was submitted under subsection (1) not less than 30
10 days before the interested party's request for consolidation. The
11 unemployment agency shall stop a review of the determination and
12 not issue a redetermination of the matter that is consolidated
13 under this subdivision.

14 (b) The unemployment insurance agency has previously issued a
15 redetermination of the listed matter under this section, and the
16 interested party filed a timely appeal for a hearing on the
17 redetermination. If the interested party has not filed an appeal
18 for a hearing on the redetermination of the listed matter before
19 the interested party submitted a request for consolidation, but the
20 appeal otherwise would be timely or the interested party has good
21 cause for a late appeal, the interested party may file an appeal
22 for a hearing for a redetermination of the listed matter at the
23 same time that the interested party made the request for
24 consolidation.

25 (8) Subsection (7) must not be construed to limit an
26 administrative law judge's authority to consolidate matters to be
27 reviewed at a hearing as described in section 33.

28 Sec. 33. (1) An appeal from a redetermination issued by the
29 unemployment insurance agency in accordance with section 32a or a

1 matter transferred for hearing and decision in accordance with
2 section 32a ~~shall~~**must** be referred to the Michigan administrative
3 hearing system for assignment to an administrative law judge. If
4 the agency transfers a matter, or an interested party requests a
5 hearing before an administrative law judge on a redetermination,
6 all matters pertinent to the claimant's benefit rights or to the
7 liability of the employing unit under this act ~~shall~~**must** be
8 referred to the administrative law judge. The administrative law
9 judge shall afford all interested parties a reasonable opportunity
10 for a fair hearing and, unless the appeal is withdrawn, the
11 administrative law judge shall decide the rights of the interested
12 parties and shall notify the interested parties of the decision,
13 setting forth the findings of fact upon which the decision is
14 based, together with the reasons for the decision. With respect to
15 an appeal from a denial of redetermination, if the administrative
16 law judge finds that there was good cause for ~~the issuance of~~
17 **issuing** a redetermination, the denial ~~shall be~~**is** a redetermination
18 affirming the determination and the appeal from the denial ~~shall be~~
19 **is** an appeal from that affirmance. Unless an interested party would
20 be unduly prejudiced, an administrative law judge may consolidate
21 cases involving the same or substantially similar evidence or
22 issues, hear the consolidated cases at the same date and time,
23 create a single record of proceedings, and consider evidence
24 introduced in 1 of those cases in the other cases. If the appellant
25 fails to appear or prosecute the appeal, the administrative law
26 judge may dismiss the proceedings or take other action considered
27 advisable. An administrative law judge may, either upon application
28 for rehearing by an interested party or on ~~his or her~~**the**
29 **administrative law judge's** own motion, proceed to rehear, affirm,

1 modify, set aside, or reverse a prior decision on the basis of the
2 evidence previously submitted in the case, or on the basis of
3 additional evidence. The application or motion ~~shall~~**must** be made
4 within 30 days after the date of mailing of the decision. The
5 administrative law judge may, for good cause, reopen and review a
6 prior decision and issue a new decision after the 30-day appeal
7 period has expired. A request for review ~~shall~~**must** be made within
8 1 year after the date of mailing of the prior decision. An
9 administrative law judge shall not participate in a case in which
10 ~~he or she~~**the administrative law judge** has a direct or indirect
11 interest.

12 (2) Within 30 days after the mailing of a copy of a decision
13 of the administrative law judge or of a denial of a motion for
14 rehearing, an interested party may file an appeal to the Michigan
15 compensation appellate commission, and unless such an appeal is
16 filed, the decision or denial by the administrative law judge is
17 final.

18 Sec. 62. (a) ~~If~~**Subject to subsection (h), if** the unemployment
19 **insurance** agency determines that an individual has obtained
20 benefits to which the individual is not entitled, or a subsequent
21 determination by the agency or a decision of an appellate authority
22 reverses a prior qualification for benefits, the agency may recover
23 a sum equal to the amount received plus interest pursuant to
24 section 15(a) by 1 or more of the following methods: deduction from
25 benefits or wages payable to the individual, payment by the
26 individual in cash, or deduction from a tax refund payable to the
27 individual as provided under section 30a of 1941 PA 122, MCL
28 205.30a. Deduction from benefits or wages payable to the individual
29 is limited to not more than 50% of each payment due the claimant.

1 The unemployment **insurance** agency shall issue a determination
2 requiring restitution within 3 years after the date of finality of
3 a determination, redetermination, or decision reversing a previous
4 finding of benefit entitlement. Except in the case of benefits
5 improperly paid because of suspected identity fraud, the
6 unemployment **insurance** agency shall not initiate administrative or
7 court action to recover improperly paid benefits from an individual
8 more than 3 years after the date that the last determination,
9 redetermination, or decision establishing restitution is final.
10 Except in the case of benefits improperly paid because of suspected
11 identity fraud, the unemployment **insurance** agency shall issue a
12 restitution determination on an issue within 3 years from the date
13 the claimant first received benefits in the benefit year in which
14 the issue arose, or in the case of an issue of intentional false
15 statement, misrepresentation, or concealment of material
16 information in violation of section 54(a) or (b) or sections 54a to
17 54c, within 3 years after the receipt of the improperly paid
18 benefits unless the unemployment **insurance** agency filed a civil
19 action in a court within the 3-year period; the individual made an
20 intentional false statement, misrepresentation, or concealment of
21 material information to obtain the benefits; or the unemployment
22 **insurance** agency issued a determination requiring restitution
23 within the 3-year period. The time limits in this section do not
24 prohibit the unemployment **insurance** agency from pursuing collection
25 methods to recover the amounts found to have been improperly paid.
26 Except in a case of an intentional false statement,
27 misrepresentation, or concealment of material information, the
28 unemployment **insurance** agency shall waive recovery of an improperly
29 paid benefit if repayment would be contrary to equity and good

1 conscience and shall waive any interest. ~~If the agency or an~~
2 ~~appellate authority waives collection of restitution and interest,~~
3 ~~except as provided in subdivision (ii), the waiver is prospective~~
4 ~~and does not apply to restitution and interest payments already~~
5 ~~made by the individual.~~ As used in this subsection, "contrary to
6 equity and good conscience" means any of the following:

7 (i) The claimant provided incorrect wage information without
8 the intent to misrepresent, and the employer provided either no
9 wage information upon request or provided inaccurate wage
10 information that resulted in the overpayment. **A waiver granted**
11 **under the conditions described in this subdivision applies from 30**
12 **days after the incorrect wage information was first reported to the**
13 **unemployment insurance agency.**

14 (ii) The claimant's average net household income and household
15 cash assets, exclusive of social welfare benefits **and unemployment**
16 **insurance benefits**, were, during the 6 months immediately preceding
17 the date of the application for waiver, at or below 150% of the
18 annual update of the poverty guidelines most recently published in
19 the Federal Register by the United States Department of Health and
20 Human Services under the authority of 42 USC 9902(2), and the
21 claimant has applied for a waiver under this subsection. The
22 unemployment **insurance** agency shall not consider ~~a new application~~
23 ~~for a waiver from a claimant within 6 months~~ **more than 3 additional**
24 **hardship waiver applications from a claimant in a calendar year**
25 **after receiving an application for a waiver from the claimant. A**
26 **claimant may not file a new hardship waiver application until a**
27 **determination, redetermination, administrative decision, or**
28 **judicial decision regarding the initial application for waiver is**
29 **final.** A waiver granted under the conditions described in this

1 subdivision applies from the date the application is filed. If the
2 waiver is granted, the unemployment **insurance** agency shall promptly
3 refund any restitution or interest payments made by the individual
4 after the date of the application for waiver. **The unemployment**
5 **insurance agency shall not deny or refuse to consider an**
6 **application for a waiver of restitution submitted by a claimant for**
7 **any matter that has received a final adjudication solely because**
8 **the claimant has a pending appeal of 1 or more matters that**
9 **generated the overpayment under consideration to be waived.** As used
10 in this subdivision:

11 (A) "Cash assets" means cash ~~on hand and funds in a~~ **in excess**
12 **of \$100,000.00 in a** checking or savings account, **not including**
13 **wages reported during that period.**

14 (B) "Dependent" means that term as defined in section
15 27(b) (4).

16 (C) "Household" means a claimant and the claimant's
17 dependents.

18 (iii) The improper payments resulted from an administrative or
19 clerical error by the unemployment agency. A requirement to repay
20 benefits as the result of a change in judgment at any level of
21 administrative adjudication or court decision concerning the facts
22 or application of law to a claim adjudication is not an
23 administrative or clerical error for purposes of this subdivision.
24 **A waiver granted under the conditions described in this subdivision**
25 **applies from the date that the administrative or clerical error**
26 **occurred. If the date the error occurred cannot be determined, the**
27 **waiver applies from the first day of the first week that the**
28 **improper payments for which the waiver is being sought began.**

29 (b) If the unemployment **insurance** agency determines that a

1 claimant has intentionally made a false statement or
2 misrepresentation or has concealed material information to obtain
3 benefits, whether or not the claimant obtains benefits by or
4 because of the intentional false statement, misrepresentation, or
5 concealment of material information, the unemployment **insurance**
6 agency shall, in addition to any other applicable interest and
7 penalties, cancel ~~his or her~~ **the claimant's** rights to benefits for
8 the benefit year in which the act occurred as of the date the
9 claimant made the false statement or misrepresentation or concealed
10 material information, and shall not use wages used to establish
11 that benefit year to establish another benefit year. A chargeable
12 employer may protest a claim filed after October 1, 2014 to
13 establish a successive benefit year under section 46(c), if there
14 was a determination by the unemployment **insurance** agency or
15 decision of a court or administrative tribunal finding that the
16 claimant made a false statement, made a misrepresentation, or
17 concealed material information related to ~~his or her~~ **the claimant's**
18 report of earnings for a preceding benefit year claim. If a protest
19 is made, the unemployment **insurance** agency shall not use any
20 unreported earnings from the preceding benefit year that were
21 falsely stated, misrepresented, or concealed to establish a benefit
22 year for a successive claim. Before receiving benefits in a benefit
23 year established within 4 years after cancellation of rights to
24 benefits under this subsection, the claimant, in addition to making
25 the restitution of benefits established under subsection (a), may
26 be liable for an additional amount as otherwise determined by the
27 unemployment **insurance** agency under this act, which may be paid by
28 cash, deduction from benefits, or deduction from a tax refund. The
29 claimant is liable for any fee the federal government imposes with

1 respect to instituting a deduction from a federal tax refund.
2 Restitution resulting from the intentional false statement,
3 misrepresentation, or concealment of material information is not
4 subject to the 50% limitation provided in subsection (a).

5 (c) Any determination made by the unemployment **insurance**
6 agency under this section is final unless an application for a
7 redetermination is filed in accordance with section 32a.

8 (d) The unemployment **insurance** agency shall take the action
9 necessary to recover all benefits improperly obtained or paid under
10 this act, and to enforce all interest and penalties under
11 subsection (b). The unemployment **insurance** agency may conduct an
12 amnesty program for a designated period under which penalties and
13 interest assessed against an individual owing restitution for
14 improperly paid benefits may be waived if the individual pays the
15 full amount of restitution owing within the period specified by the
16 agency.

17 (e) Interest recovered under this section must be deposited in
18 the contingent fund.

19 (f) The unemployment **insurance** agency shall not make a
20 determination that a claimant made an intentional false statement,
21 misrepresentation, or concealment of material information that is
22 subject to sanctions under this section based solely on a computer-
23 identified discrepancy in information supplied by the claimant or
24 employer. An unemployment **insurance** agency employee or agent must
25 examine the facts and independently determine that the claimant or
26 the employer is responsible for a willful or intentional violation
27 before the agency makes a determination under this section.

28 (g) By January 31 each year, beginning in 2019, the
29 unemployment **insurance** agency shall provide a written report

1 regarding waivers under subsection (a) (ii) to the chairpersons of
 2 the standing committees and the appropriations subcommittees of the
 3 house of representatives and senate having jurisdiction over
 4 legislation pertaining to employment security. The report must
 5 include all of the following information from the immediately
 6 preceding calendar year in a form that does not identify an
 7 individual, claimant, or employer:

8 (i) The procedures relating to waivers that the unemployment
 9 **insurance** agency used or adopted.

10 (ii) The number of applications for a waiver the unemployment
 11 **insurance** agency received.

12 (iii) The number of individuals who submitted an application for
 13 a waiver.

14 (iv) The number of waivers that were granted by each of the
 15 following methods:

16 (A) An unemployment **insurance** agency determination.

17 (B) An unemployment **insurance** agency redetermination.

18 (C) An administrative law judge order.

19 (D) A Michigan compensation appellate commission order.

20 (E) A court order.

21 (v) The number of waivers that were denied, tabulated by the
 22 reason for the denial, by each of the following methods:

23 (A) An unemployment **insurance** agency determination.

24 (B) An unemployment **insurance** agency redetermination.

25 (C) An administrative law judge order.

26 (D) A Michigan compensation appellate commission order.

27 (E) A court order.

28 (vi) The total amount of restitution waived.

29 **(h) The unemployment insurance agency shall not initiate**

1 recovery of improperly paid benefits under subsection (a) until the
2 unemployment insurance agency has reviewed the claim for
3 eligibility to receive a waiver under subsection (a) (i) and (iii) to
4 which the claimant may be entitled and issued a notice to the
5 claimant that includes all of the following information:

6 (i) A determination of eligibility for each waiver for which
7 eligibility was considered or, if a determination could not be
8 reached, the information the unemployment insurance agency needs to
9 make a determination.

10 (ii) The consequences of each determination on the claimant's
11 benefit rights and any overpayment owed, including the issue or
12 matter generating the overpayment and the weeks of benefits
13 affected.

14 (iii) The claimant's protest and appeal rights with respect to
15 the determination or redetermination on the claimant's eligibility
16 for a waiver and the underlying determination or redetermination
17 that generated the overpayment.

18 Enacting section 1. This amendatory act takes effect 18 months
19 after the date it was enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless Senate Bill No. 40 of the 102nd Legislature is enacted into
22 law.