

## §1191. Payment and amounts

**1. Payment of benefits.** Benefits must be paid from the Unemployment Compensation Fund through public employment offices or such other agencies as the commissioner may by rule prescribe, and in accordance with such rules as the commissioner may prescribe.

[PL 2021, c. 456, §14 (AMD).]

**2. Weekly benefit amount for total unemployment.** Each eligible individual establishing a benefit year on or after October 1, 1983 and before January 1, 2000 who is totally unemployed in any week must be paid with respect to that week benefits equal to 1/22 of the wages, rounded to the nearest lower full dollar amount, paid to that individual in the high quarter of the base period, but not less than \$12. Each eligible individual establishing a benefit year on or after January 1, 2000 who is totally unemployed in any week must be paid with respect to that week benefits equal to 1/22 of the average of the wages, rounded to the nearest lower full dollar amount, paid to that individual in the 2 highest quarters of the base period. The maximum weekly benefit amount for claimants requesting insured status determination beginning October 1, 1983 and thereafter from June 1st of a calendar year to May 31st of the next calendar year may not exceed 52% of the annual average weekly wage, rounded to the nearest lower full dollar amount, paid in the calendar year preceding June 1st of that calendar year. For the period from September 28, 1997 to December 31, 1999, the maximum weekly benefit amount is limited to 94% of the amount calculated previously in this subsection, rounded to the nearest lower full dollar amount. For claimants requesting insured status determination on or after April 1, 1995 and before January 1, 2000, the weekly benefit amount must be the amount determined by this subsection minus \$3.

[PL 1999, c. 464, §6 (AMD).]

**3. Weekly benefit for partial unemployment.** Each eligible individual who is partially unemployed in any week must be paid a partial benefit for that week. The partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of \$25, except that, beginning the first full benefit week beginning on or after January 1, 2018, the partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of \$100. On the first Sunday of June 2022 and each first Sunday of June thereafter, the individual's earnings disregard then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of December of the previous year over the level as of December of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the individual's earnings disregard rounded up to the nearest dollar. The following amounts are not considered wages for purposes of this subsection:

A. Amounts received from the Federal Government by a member of the National Guard and organized reserve, including base pay and allowances; [PL 2009, c. 466, §1 (NEW).]

B. Amounts received as a volunteer firefighter or as a volunteer emergency medical services person; [PL 2009, c. 466, §1 (NEW).]

C. Amounts received as an elected member of the Legislature; and [PL 2009, c. 466, §1 (NEW).]

D. Earnings for the week received as a result of participation in full-time training under the United States Trade Act of 1974 as amended by the United States Trade and Globalization Adjustment Assistance Act of 2009 up to an amount equal to the individual's most recent weekly benefit amount. [PL 2009, c. 466, §1 (NEW).]

[PL 2021, c. 456, §15 (AMD).]

**4. Maximum amount of benefits.** The maximum amount of benefits that may be paid to any eligible individual with respect to any benefit year, whether for total or partial unemployment, may not

exceed the lesser of 26 times the individual's weekly benefit amount or 33 1/3%, rounded to the nearest dollar, of the individual's total wages paid for insured work during the individual's base period, plus the supplemental weekly benefit for dependents payable under subsection 6.

A. If a dislocated worker, as defined in section 1196, subsection 1, who is in training approved under section 1192, subsection 6, 6-A, 6-C, 6-D or 6-E qualifies for additional benefits under section 1043, subsection 5, paragraph B, or exhausts the worker's entitlement to benefits available to the worker under this subsection, the maximum amount under this subsection is the product of the worker's most recent weekly benefit amount multiplied by the number of weeks in which the worker thereafter attends an approved training program. No increase may be made under this paragraph, with respect to any benefit period, greater than 26 times the individual's weekly benefit amount.

(1) Benefits paid to an individual under this paragraph may not be charged against the experience rating record of any employer, but must be charged to the General Fund.

(2) No benefits may be paid under this paragraph to any person:

(b) Until the person has exhausted benefits for which the person is eligible under any unemployment insurance benefit program funded in whole or in part by the State Government or Federal Government; or

(c) Who is eligible for or who has exhausted, after the effective date of this paragraph, trade adjustment allowances as provided by the United States Trade Act of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title 19, Section 2291, et seq., and any amendments or additions thereto, or a similar successor provision of that Act, except that any individual who was eligible for and received less than 26 weeks of benefits under the United States Trade Act may receive benefits for the number of weeks by which their benefits under that Act are less than 26 weeks. [PL 2009, c. 271, §2 (AMD).]

[PL 2009, c. 271, §2 (AMD).]

**5. Minimum amount of benefits.** An individual otherwise eligible for benefits, whether for total or partial unemployment, with respect to any benefit year may not be considered to have exhausted that individual's benefits in any benefit year until that individual has received in benefits at least \$300, notwithstanding any other provision in this chapter to the contrary.

[RR 2023, c. 2, Pt. E, §88 (COR).]

**6. Supplemental benefit for dependents.** An individual in total or partial unemployment and otherwise eligible for benefits must be paid for each week of that unemployment, in addition to the amounts payable under subsections 2 and 3, the sum of \$25 for each unemancipated child of the individual who in any part of the benefit year and during any part of the individual's period of eligibility is, in fact, dependent upon and is being supported by the individual, and who is under the age of 18, or who is 18 years of age or over and incapable of earning wages because of mental or physical incapacity, or who is a full-time student as defined in Title 39-A, section 102, subsection 8, paragraph C, or who is in that individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction and for each such child for whom that individual is under a decree or order from a court of competent jurisdiction to contribute to that child's support and for whom no other person is receiving allowances hereunder. In no instance may the dependency benefits as provided in this subsection be more than 75% of the individual's weekly benefit amount.

Only one individual is entitled to a dependency allowance for the same dependent with respect to any week. The commissioner shall prescribe rules as to who may receive a dependency allowance when both spouses are eligible to receive unemployment compensation benefits.

[PL 2021, c. 456, §16 (AMD).]

**7. Child support obligations deducted and withheld from benefits.** Child support obligations shall be deducted and withheld from benefits as follows.

A. An individual filing a new claim for unemployment compensation on and after October 1, 1982 shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under paragraph G. If an individual discloses that that individual owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

The state or local child support enforcement agency shall biweekly provide the commissioner by magnetic tape or other automated process with identification of individuals who owe child support obligations as defined under paragraph G. [PL 1993, c. 6, Pt. C, §10 (AMD).]

B. Notwithstanding any other provisions of this chapter, the commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations and who has been reported under paragraph A:

(1) Amounts in excess of income exempt under Title 19-A, section 2356, if neither subparagraph (2) nor subparagraph (3) applies;

(2) The amount, if any, determined pursuant to an agreement submitted to the commissioner under the United States Social Security Act, Section 454 (20) (B) (i), by the state or local child support enforcement agency, unless subparagraph (3) applies; or

(3) Any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to legal process, as that term is defined in the United States Social Security Act, Section 462 (e), properly served upon the commissioner, whether or not the individual has been reported under paragraph A. [PL 1995, c. 694, Pt. D, §53 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. Any amount deducted and withheld under paragraph B shall be paid by the commissioner to the appropriate state or local child support enforcement agency. [PL 1981, c. 548, §1 (NEW).]

D. Any amount deducted and withheld under paragraph B shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations. [PL 1981, c. 548, §1 (NEW).]

E. For purposes of paragraphs A to D, the term, "unemployment compensation" means any compensation payable under this chapter, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment. [PL 1981, c. 548, §1 (NEW).]

F. This subsection applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the commissioner under this subsection which are attributable to child support obligations being enforced by the state or local child support enforcement agency. [PL 1981, c. 548, §1 (NEW).]

G. The term "child support obligations" is defined for purposes of this subsection as including only obligations which are being enforced pursuant to a plan described in the United States Social Security Act, Section 454, which has been approved by the Secretary of Health and Human Services under the United States Social Security Act, Title IV, Part D. [PL 1981, c. 548, §1 (NEW).]

H. The term "state or local child support enforcement agency" as used in this subsection means any agency of this State or a political subdivision thereof operating pursuant to a plan described in paragraph G. [PL 1981, c. 548, §1 (NEW).]

[PL 1995, c. 694, Pt. D, §53 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

**8. Unemployment compensation; rounded to lowest dollar amount.** Notwithstanding any other provisions of this law to the contrary, any amount of unemployment compensation payable to any individual for any week if not an even dollar amount, shall be rounded to the next lower full dollar amount.

[PL 1983, c. 13, §6 (NEW).]

**9. Voluntary withholding of income tax.** Individuals must be notified that federal, state and local income tax may be withheld from payments made on or after January 1, 1997 as follows.

A. An individual filing a new claim for unemployment compensation must be advised at the time of filing the claim, that:

- (1) Unemployment compensation is subject to federal and state income taxes;
- (2) Requirements exist pertaining to estimated tax payments;
- (3) The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the federal Internal Revenue Code;
- (4) Notwithstanding the requirements of Title 36, section 5255-B, the individual may elect to have state income tax deducted and withheld from the individual's payment of unemployment compensation at the rate of 5%; and
- (5) The individual must be permitted to change a previously elected withholding status. [PL 1995, c. 554, §1 (NEW).]

B. Amounts deducted and withheld from unemployment compensation remain in the unemployment compensation fund until transferred to the federal or state taxing authority as a payment of income tax. [PL 1995, c. 554, §1 (NEW).]

C. The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax. [PL 1995, c. 554, §1 (NEW).]

D. Amounts may be deducted and withheld under this subsection only after amounts are deducted and withheld for any overpayments, child support obligations, Supplemental Nutrition Assistance Program overissues or any other amounts required to be deducted and withheld under this chapter. [PL 2023, c. 405, Pt. C, §16 (AMD).]

For purposes of this subsection, the term "unemployment compensation" means any compensation payable under this chapter, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment.

[PL 2023, c. 405, Pt. C, §16 (AMD).]

**10. Estimated benefit.** Upon inquiry from an individual, the Department of Labor shall provide an estimate of the amount and duration of benefits likely to be paid to that individual under this chapter if the individual applied for benefits that day. If the inquiry is made within 2 weeks before the beginning of a calendar quarter, the Department of Labor shall also provide an estimate of the duration and amount of benefits likely to be paid to that individual if the individual applied for benefits after the beginning of that calendar quarter. Inquiries under this subsection may be made and answered over the telephone and are not considered applications for benefits.

[PL 2003, c. 95, §1 (NEW).]

#### SECTION HISTORY

PL 1965, c. 217, §2 (AMD). PL 1965, c. 381, §§8-10 (AMD). PL 1965, c. 457, §§2,3 (AMD). PL 1967, c. 323 (AMD). PL 1967, c. 398, §2 (AMD). PL 1969, c. 388 (AMD). PL 1971, c. 538,

§§21,22 (AMD). PL 1975, c. 568, §§1,2 (AMD). PL 1975, c. 710, §1-A (AMD). PL 1975, c. 720 (AMD). PL 1977, c. 444 (AMD). PL 1979, c. 515, §12 (AMD). PL 1981, c. 342, §§1,2 (AMD). PL 1981, c. 548, §1 (AMD). PL 1983, c. 13, §§3-6 (AMD). PL 1983, c. 305, §§2,3 (AMD). PL 1983, c. 862, §75 (AMD). PL 1985, c. 591, §4 (AMD). PL 1985, c. 737, §A71 (AMD). PL 1985, c. 814, §J2 (AMD). PL 1987, c. 570, §2 (AMD). PL 1987, c. 636, §1 (AMD). PL 1989, c. 363, §1 (AMD). PL 1991, c. 193, §3 (AMD). PL 1991, c. 870, §2 (AMD). PL 1991, c. 885, §E38 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 6, §C10 (AMD). PL 1993, c. 22, §2 (AMD). PL 1993, c. 528, §1 (AMD). PL 1995, c. 9, §2 (AMD). PL 1995, c. 554, §1 (AMD). PL 1995, c. 694, §D53 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 380, §1 (AMD). PL 1997, c. 745, §1 (AMD). PL 1999, c. 464, §6 (AMD). PL 2003, c. 95, §1 (AMD). RR 2009, c. 2, §77 (COR). PL 2009, c. 271, §2 (AMD). PL 2009, c. 466, §1 (AMD). PL 2017, c. 284, Pt. CCCC, §1 (AMD). PL 2021, c. 456, §§14-16 (AMD). PL 2023, c. 405, Pt. C, §16 (AMD). RR 2023, c. 2, Pt. E, §88 (COR).

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