

LEGISLATIVE BILL 197

Approved by the Governor March 11, 2025

Introduced by Storm, 23.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-628.09, 48-630, and 48-631, Reissue Revised Statutes of Nebraska; to change provisions relating to a disqualification for benefits due to a labor dispute, claim determinations, and claim redeterminations; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-628.09, Reissue Revised Statutes of Nebraska, is amended to read:

48-628.09 (1) An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that his or her total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises where he or she is or was last employed. This section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in, financing, or directly interested in the labor dispute which caused the stoppage of work; and

(b) He or she does not belong to a grade or class of workers that includes members who, immediately before the commencement of the stoppage, were employed at the premises where the stoppage occurs and who are participating, financing, or directly interested in the dispute.

(2) If in any case, separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for purposes of this section, be deemed to be a separate factory, establishment, or other premises.

(3) All claims arising out of the same alleged labor dispute may be considered at the same time.

Sec. 2. Section 48-630, Reissue Revised Statutes of Nebraska, is amended to read:

48-630 (1) A determination upon a claim filed pursuant to section 48-629 shall be made promptly by the department ~~a representative designated by the commissioner, hereinafter referred to as an adjudicator.~~

(2) A determination shall include a statement as to whether and in what amount claimant is entitled to benefits for the week with respect to which the determination is made. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 48-627.01, and, if so, the first day of the benefit year, his or her weekly benefit amount, and the maximum total amount of benefits payable to him or her with respect to such benefit year. ~~Whenever any claim involves the application of the provisions of section 48-628.09, the adjudicator shall promptly transmit his or her full findings of fact, with respect to such section, to the commissioner, who, on the basis of the evidence submitted and such additional evidence as he or she may require, shall affirm, modify, or set aside such findings of fact and transmit to the adjudicator a decision upon the issue involved under such section, which shall be deemed to be the decision of the adjudicator. All claims arising out of the same alleged labor dispute may be considered at the same time.~~

(3) In the event a claim is denied, a determination shall state the reasons therefor. Regardless of the outcome, the parties shall be promptly notified of the determination, together with the reasons therefor, and such determination shall be deemed to be the final decision on the claim, unless an appeal is filed with the department in the manner prescribed in section 48-634.

(4) Any benefits for which a claimant has been found eligible shall not be withheld because of an appeal filed under section 48-634, and such benefits shall be paid until a hearing officer has rendered a decision modifying or reversing the determination allowing such benefits if the claimant is otherwise eligible. Any benefits received by any person to which he or she had been found not entitled, under a redetermination or decision pursuant to sections 48-630 to 48-638, shall be treated as erroneous payments in accordance with section 48-665.

Sec. 3. Section 48-631, Reissue Revised Statutes of Nebraska, is amended to read:

48-631 (1) A redetermination upon a claim filed pursuant to section 48-629 may be made by a representative designated by the commissioner, hereinafter referred to as an adjudicator, if the adjudicator ~~The adjudicator may reconsider a determination if he or she finds that:~~

(a) An error in computation or identity has occurred in connection with the determination;

(b) Wages of the claimant pertinent to such determination, but not considered in connection therewith, have been newly discovered; ~~or~~

(c) Benefits have been allowed or denied or the amount of benefits has been set based on misrepresentations of fact; or ~~or~~

(d) A review conducted as part of the benefit accuracy measurement program finds an error in the determination. For purposes of this subdivision, benefit accuracy measurement program means the quality control program required pursuant to 20 C.F.R. part 602.

(2) No such redetermination shall be made after two years from the date of the original determination.

(3) Notice of any redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in section 48-630 with respect to notice of an original determination.

(4) If the amount of benefits is increased or decreased by a redetermination, an appeal therefrom may be filed solely with respect to the matters involved in such increase or decrease in the manner and subject to the limitations provided in section 48-634. Subject to the same limitations and for the same reasons, the Commissioner of Labor may reconsider the determination, in any case in which the final decision has been rendered by a hearing officer or a court, and may apply to the hearing officer or court which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination is issued, such appeal, unless withdrawn, shall be treated as an appeal of the redetermination.

Sec. 4. Original sections 48-628.09, 48-630, and 48-631, Reissue Revised Statutes of Nebraska, are repealed.