

# Unemployment Compensation Regulations

## Subpart A. Unemployment Compensation

Chap./Sec.

61. Administration

63. Responsibilities of Employers

65. Employee Provisions

### Authority

The provisions of this Subpart A issued under the Pennsylvania Unemployment Compensation Law (43 P. S. §§751 — 914), unless otherwise noted.

### Source

The provisions of this Subpart A adopted July 1, 1969, unless otherwise noted.

## Chapter 61. Administration General Provisions

Sec.

### General

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## GENERAL PROVISIONS

### §61.1. Definitions.

Terms which are defined in the law and which are used in this subpart have the same meanings as provided in the law. In addition, the following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

*Applicant* — An individual applying for employment at an office at the Pennsylvania State Employment Service.

*Board* — The Unemployment Compensation Board of the Commonwealth.

*Bureau* — The Bureau of Employment Security of the Commonwealth.

*Claim* — Either claim for waiting period credit or a claim for compensation, sometimes referred to as a “pay order.”

*Claimant* — An individual applying for compensation under the law, the unemployment compensation law of another state or territory of the United States, or under 5 U.S.C. Chapter 85 (UCFE and UCX programs).

*Contributions* — The money payments required by sections 301 and 301.1 of the law (43 P. S. §§781 and 781.1) to be made to the Unemployment Compensation Fund by an employer with respect to employment.

*Department* — The Department of Labor and Industry of the Commonwealth.

*Holiday pay* — Remuneration payable for services performed in the claim week in which a legal holiday occurs for purposes of computing compensation for partial and part-total unemployment.

*Law* — The Pennsylvania Unemployment Compensation Law (43 P. S. §§751 — 914).

*Leaving work* — An employe shall be deemed to have “left work” in the following situations:

- (i) If he walked off work or abandoned his position.
- (ii) If, having been on temporary short term layoff with a specific date of return, he refused or failed to return to his employment on the specific date or when recalled by the employer before that date.
- (iii) If he refused a transfer or a change in conditions of work which he was required to accept under his contract of employment with the employer.

*Partial unemployment* — An individual shall be considered partially unemployed with respect to a week during which he was employed by his regular employer and earned less than his weekly benefit rate plus his partial benefit credit, and was employed less than customary full-time hours due to lack of work.

*Part-total unemployment* — An individual shall be considered to be part-totally unemployed with respect to any week during which he was not employed by his regular employer, earned less than his weekly benefit rate plus his partial benefit credit, and was employed less than his customary full-time hours due to lack of work.

*Payments in lieu of contributions* — The money payments made into the Unemployment Compensation Fund by an employer with respect to employment, under sections 1003, 1104 and 1202 of the law (43 P. S. §§893, 904 and 912).

*Total unemployment* — An individual shall be considered totally unemployed with respect to a week during which he performs no services and with respect to which no remuneration is paid or payable to him.

*Trainee* — An individual who applies for or receives training under a training program in which the Bureau is involved.

*Week* — Except as otherwise specifically provided, a week, with respect to an individual who files a claim for total, part-total or partial unemployment, means the calendar week — Sunday through Saturday, except that those individuals who are filing claims for compensation for a period of unemployment which began prior to the effective date of this section shall continue to file claims for weeks of any 7 consecutive days for as long as that period of unemployment continues and they are otherwise eligible. For purposes of this section, if the workday of an individual includes parts of 2 calendar days, the work performed by the individual during the workdays shall be considered to have been performed during the first of the calendar days.

#### **Source**

The provisions of this §61.1 amended May 4, 1973, 3 Pa.B. 46. Immediately preceding text appears at serial pages (9270) and (9271).

#### **Cross References**

This section cited in 34 Pa. Code §65.1 (relating to definitions).

## §61.2. Social security account numbers.

- (a) An employer shall ascertain the social security account number of his employees.
- (b) The employer shall inform an employe who does not have a social security account number of the provisions of Regulation 128 of the Bureau of Internal Revenue. If the employe fails to comply with the requirements of the regulation, the employer shall execute a Form SS-5, Application for Social Security Number, for the employe.

### Notes of Decisions

#### *Week*

Because a week begins on Sunday and the legal holiday was on Monday, the first day of the week as that term is defined in the Law is not a customary vacation period although it is a customary day off for working people. Therefore, school bus drivers seeking unemployment compensation were not excluded from coverage for a week in which Monday was a holiday and the remainder of the week was snow days under 43 P. S. §802.1. *North Penn Sch. Dist. v. Unemployment Compensation Board of Review*, 662 A.2d 1161 (Pa. Cmwlth. 1995).

## §61.3. Wages.

- (a) *Date of payment.* Wages shall be considered to be paid on the day on which amounts definitely assignable to a payroll period are generally paid by the employer, even though the wages have not actually been reduced to the possession of employes.
- (b) *Shipping Articles.* Wages with respect to services performed under Shipping Articles, which are effective for a period of more than 1 month and under which wages are not paid in full at periodic intervals of 1 month or less, shall be considered to be paid in the calendar quarter in which the services of the employe were being performed. The amount of those wages shall be determined on the basis of the ratio of the number of days in a calendar quarter in which service was performed by the employe to the total number of days in which the employe performed services under the Shipping Articles.
- (c) *Board and lodging.* The money value of board or lodging constituting wages shall be the reasonable cash value to the employe of the board or lodging, but may not be considered less than the following minimum amounts, unless the employer produces evidence to the satisfaction of the Bureau that the minimum amounts are in excess of the actual value to the employe of his board or lodging:
  - (1) Lodging for 1 week, \$2.50.
  - (2) Meals for 1 week, \$4.50.
  - (3) Meals for 1 day, 75¢.
  - (4) One meal, 25¢.

### Notes of Decisions

#### *Date of Payment*

The Unemployment Compensation Board of Review is bound by this regulation and is required to treat wages as paid on the date the employer was supposed to make the payments. Therefore, the Board erred in concluding that the lump sum payment was properly assignable to the second quarter of 1994, rather than to the period from April of 1994 through March of 1995 to an employe on "leave" status when the payment had a direct relation to the personal services rendered with respect to claimant's employment. *Coates v. Unemployment Compensation Board of Review*, 676 A.2d 742 (Pa. Cmwlth. 1996).

The Unemployment Compensation Referee and the Board of Appeals properly applied back wages earned by employes to the quarter in which they earned the wages rather than the quarter when the wages were paid as

required by the rationale of *Cugini v. Unemployment Compensation Board of Review*, 512 A.2d 1169 (Pa. 1986). *USX Corporation v. Unemployment Compensation Board of Review*, 551 A.2d 389 (Pa. Cmwlth. 1988).

Subsection (a) provides that “(w)ages shall be deemed to be paid on the day . . . generally paid by the employer, even though the wages have not actually been reduced to the possession” of the employee, controls the attribution of severance pay for purposes of computing claimant base year wages. *Cugini v. Unemployment Compensation Board of Review*, 512 A.2d 1169 (Pa. Cmwlth. 1986).

This section, assigning wages to usual pay date rather than actual date of receipt, pertains to employers’ reporting of wages for fund collection purposes and is not relevant to assignment for wages for purposes of determining claimant eligibility for benefits. *Rebo v. Unemployment Compensation Board of Review*, 499 A.2d 732 (Pa. Cmwlth. 1985).

### *Generally Paid*

The 1994 employe calendar published by employer and claimant’s wage records, indicated that group III employes, such as claimant, received paychecks as a rule on alternate Fridays throughout 1994; thus, claimant was “generally paid” every other Friday. Accordingly, the \$952 payment on March 31, 1994, a Thursday, should have been attributed to April 1, 1994, a Friday; thus, claimant was entitled to unemployment compensation benefits. *Gibson v. Unemployment Compensation Board of Review*, 682 A.2d 422 (Pa. Cmwlth. 1996).

## **Law Review**

### *Source*

*Annual Survey of Selected Court Decisions: Unemployment Compensation: Coates v. Unemployment Compensation Board of Review: The Commonwealth Court Further Defines “Wages” for Unemployment Compensation Purposes*, Weaver, Rhonda. 6 Widener J. Public L. 943 (1997).

### **§61.4. Notification of employe’s rights.**

- (a) Employers shall post and maintain, in places readily accessible to their employes, printed notices or posters informing employes of their potential rights to benefits under section 405 of the law (43 P. S. §805) and providing general instructions as to what the employe shall do and where the employe shall go to obtain those benefits.
- (b) Copies of printed notices or posters may be obtained from the Bureau, upon request, without cost to the employer.

### **§61.5. Special Administration Fund.**

- (a) Contributions, together with interest and penalties thereon, received or collected by the Bureau from employers under the provisions of section 601 of the law (43 P. S. §841) shall be credited to the Employers’ Contribution Account. Interest and penalties credited to the account shall not be deemed to be a part of the Unemployment Compensation Fund, and shall be transferred to the Special Administration Fund at convenient intervals, section 641.1 of the law (43 P. S. §841.1).
- (b) No refund of interest or penalties will be made to an employer from the Unemployment Compensation Fund, and no deduction of interest or penalties erroneously paid will be allowed an employer with respect to future payments of contributions, interest or penalties until an amount of money equal to or in excess of the interest or penalties has been transferred from the Special Administration Fund to the Unemployment Compensation Fund.
- (c) Additional amounts of money will be transferred from time to time, in keeping with the provisions of subsection (b), so that the total amount of money thus transferred will, at all times, be equal to or in excess of the sum of the total amounts of interest and penalties erroneously paid and which fall into one of the following categories:

- (1) Those refunded subsequent to May 31, 1945.
  - (2) Those allowed to be deducted by employers with respect to future payments of contributions, interest or penalties subsequent to that date.
  - (3) Those included in the amounts of checks which have been deposited since that date and which have been returned unhonored, unless the checks have been subsequently redeposited and honored.
- (d) Any money transferred under the provisions of subsection (c) and which are in excess of the total amounts of such interest and penalties shall be considered as a credit in the Unemployment Compensation Fund against future transfer required to be made by the provisions of this section.

#### **§61.6. Disposal of records.**

- (a) Under the authority granted by section 209 of the law (43 P. S. §769), the following categories of records pertaining to contributions and benefit rights shall be subject to disposal according to schedules or directives approved by the Bureau, and shall be issued through the usual media for disseminating official Bureau instructions:
- (1) Records which are not required in the transaction of current business.
  - (2) Records which do not have administrative, legal or research value.
  - (3) Records which do not have other values for contribution liability or benefits entitlement to warrant further preservation.
- (b) Those contributions or benefits records which are established as the result of a specific unemployment compensation program controlled by the Federal government will be disposed of in accordance with agreements entered into with the United States Department of Labor.
- (c) Records authorized for disposal under this section shall be destroyed or otherwise disposed of in accordance with current administrative and fiscal policies and with cognizance of obligation of the Bureau to preserve the confidential character of the records.

#### **§61.7. Discrimination in referrals.**

- (a) In referring applicants to employment positions, local employment offices of the Department will refrain from an act of discrimination because of the affiliation or nonaffiliation of an applicant with a labor organization.
- (b) The term “act of discrimination” may not be construed to include referrals of persons affiliated with a labor organization on the basis of an order so specifying from an employer pursuant to his agreement or understanding, written or otherwise, with representatives of employes affiliated with the labor organization.

### **WITNESS FEES AND EXPENSES**

#### **§61.11. Persons reimbursable.**

The payment of fees and expenses to individuals who have served as witnesses in proceedings conducted by the Board of Review or the Bureau will be made subject to the following conditions:

- (1) *Persons not parties-in-interest.*
  - (i) Payment may be made only to individuals who have received a summons or a subpoena issued by the Bureau or the Board of Review in accordance with sections 506 and 304 of the law (43 P. S. §§784 and 826), and who are not a party-in-interest to the proceeding.
  - (ii) In a proceeding relating to compensation rights the claimant and any last or base-year employer of the claimant shall be considered a party-in-interest.
  - (iii) An employer shall be considered a party-in-interest to a proceeding relating to his status or liability

under section 304 of the law (43 P. S. §784).

- (iv) Employees, including corporate officers, of an employer who is a party-in-interest to a proceeding, shall be considered as parties-in-interest to the proceeding.
- (2) *Employees of the Department.* Employees of the Department may not be entitled to a payment provided by the provisions of this section, but shall be reimbursed for proper expenses in accordance with the provisions of Departmental rules and regulations governing traveling expenses of employees. The receipt of a summons or a subpoena by an employe of the Department, however, will justify the issuance of whatever authorization for travel as may be required under the travel rules and regulations.
- (3) *Commonwealth employes and employes of the Department.* An employe of the Commonwealth who is not an employe of the Department will not be entitled to a payment provided by the provisions of this section, but will be reimbursed for expenses in the same manner as provided for employes of the Department, unless the employe shows to the satisfaction of the comptroller of the Bureau that he is not entitled to State pay for the period of time spent in attendance at a proceeding in response to a summons or a subpoena. In this event the employe is entitled to allowances as provided for other individuals who are not employes of the Commonwealth.

### **Cross References**

This section cited in 34 Pa. Code §61.12 (relating to reimbursable items).

#### **§61.12. Reimbursable items.**

##### **(a) Transportation.**

- (1) An individual who is entitled to reimbursement under §61.11 (relating to persons reimbursable) and who resides outside the place where his attendance is required, whether the residence is within or without this Commonwealth, may be paid mileage at the rate of 7¢ for each mile he actually travels in going to the place from his place of residence and returning, but he will not be reimbursed for a greater number of miles than would be required for traveling by the usually traveled route between those places.
- (2) When a proceeding is adjourned, continued or postponed for more than 1 day or is prolonged from 1 week to the next, a witness necessarily present both before and after the interval and who returns to his place of residence during the interim may be paid one additional mileage allowance for each interval.

##### **(b) Fees.**

- (1) An individual entitled to reimbursement under §61.11 may be allowed a fee of \$5.00 for each day or part of a day spent in attending or traveling to and from a proceeding.
- (2) When a proceeding is prolonged from 1 day to the next a witness necessarily present on both days who resides more than 50 miles by the usually traveled route from the place the proceeding is held and who remains there overnight may be paid an additional amount equal to the *per diem* witness fee for each night.

(c) *Time limit for filing claims.* An allowance or fee payable under the provisions of this section shall be paid only if a claim therefor is filed with the Board or the Bureau within 30 days from the date of the proceeding.

### **DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION**

#### **§61.21. Authorization required.**

No officer or employe of the Department or the Board or other public employe, except as authorized by the provisions of this chapter, shall produce or disclose to any person or before any tribunal, directly or indirectly, any record or any information acquired from a record pertaining to any employer, applicant, claimant or trainee.

### **§61.22. Procedure when served with a subpoena.**

An officer or employe of the Department or the Board, upon being served with a subpoena or other compulsory process, shall immediately bring the matter to the attention of his superior officer who shall forthwith supply the following information to the legal division of the Department:

- (1) The caption of the case, the names of the parties and other general information.
- (2) The nature of the case, if known.
- (3) The name of the employe served with the subpoena.
- (4) The time and place where the employe is directed to appear.
- (5) What records, if any, the employe is directed to produce.

### **§61.23. Furnishing of information.**

Disclosure of records or information may be authorized by specific instruction of the Department or Board in the following cases:

- (1) To individual applicants and employers to the extent necessary for the efficient performance of recruitment, placement, employment counseling and other employment service functions.
- (2) To any properly identified claimant for benefits or payments under a State, territorial or Federal unemployment compensation or re-adjustment allowance law, or training allowance law, or to his authorized representative, including information which directly concerns the claimant and is reasonably necessary for the proper presentation of his claim.
- (3) To officers and employes of the Department and the Board of Review, and to an officer or employe of an agency of the Federal government or of a State or territorial government, lawfully charged with the administration of a Federal, State or territorial unemployment compensation, readjustment allowance or training allowance law, but only for purposes reasonably necessary for the proper administration of the law.
- (4) To an officer or employe of an agency of the Federal government or of a State or territorial government, lawfully charged with the administration of a law providing for old age assistance or other public assistance, work relief, pension, retirement or other benefit payments, but only for purposes reasonably necessary for the proper administration of the law.
- (5) To applicants, employers and the public when the information is of a general nature concerning employment opportunities, employment levels and trends, and labor supply and demand, but only if the release or publication does not include information identifiable to individual applicants, employers or employing establishments.
- (6) To governmental authorities, such as antidiscrimination and fair employment practice authorities, whose functions will aid the Pennsylvania State Employment Service in carrying out an amplified and more effective placement service, including information relating to fair employment practices.
- (7) To individuals, organizations and agencies, or for purposes other than as specified in paragraphs (1) — (6), if a disclosure does not impede the operation of, and is not inconsistent with the purposes of the employment security program, and is authorized in writing in individual cases by the Executive Director.

### **§61.24. Statistical publications.**

Nothing in this chapter may be construed to prohibit the publication of statistical data or other general information, if the publication is not identifiable to individual employers, employes, applicants or claimants.

## Chapter 63. Responsibilities of Employers

Subchap./Sec.

A. General Functions/63.1

B. Multistate Agreements/63.71

C. Nonprofit Organizations Making Payments in Lieu of Contributions/63.91

### Source

The provisions of this Chapter 63 adopted May 4, 1973, 3 Pa.B. 845.

## Subchapter A. General Functions

### Transfers of Experience Records

Sec.

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63.2. Part transfers of organization, trade or business.

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## TRANSFERS OF EXPERIENCE RECORDS

### §63.1. Successors-in-interest.

- (a) *Comparisons.* A successor employer who, under the provisions of section 301(d)(1) of the Law (43 P. S. §781(d)(1)), has made application for the transfer of the whole or any appropriate part of the experience record and reserve account balance of a preceding employer shall be considered as continuing essentially the same business activity as his predecessor only if the Bureau finds that the anticipated employment risk of the succeeding employer with respect to such factors as unemployment has a direct relationship to the employment experience of the preceding employer. The determination shall be made by comparing the respective employers in matters such as the nature of the enterprises, the number of individuals employed by each and the wages paid or estimated to be paid to the employees.
- (b) *Information required.* The successor employer shall submit whatever information the Bureau may request for the purpose of making its determination pursuant to subsection (a).
- (c) *Disapproval of applications.* Whenever the Bureau finds that the anticipated employment risk of the successor is not substantially comparable to that of the predecessor for whose experience record and reserve account balance the successor has applied, his application shall be disapproved.

### §63.2. Part transfers of organization, trade or business.

- (a) *Wage ratios.* When an application for part transfer of an employer's experience record and reserve account balance has been approved, or where such a transfer has occurred as provided in section 301(d)(1)(B) of the Law (43 P. S. §781(d)(1)(B)), the Bureau shall determine the ratio that the wages paid during the last 3 completed calendar years prior to the date of the transfer, in that part of the organization, bears to all wages paid by the predecessor in the corresponding period. If the part which is transferred has been in existence for a period of less than 3-calendar years, wages paid during that period shall be used to determine the ratio.
- (b) *Application of ratio.* The wage ratio shall be used as the basis to reduce the reserve account of the predecessor and to establish the reserve account of the successor-in-interest, as follows:
  - (1) Apply the ratio to the reserve account of the predecessor beginning with the fiscal year in which wages were first paid in that part of the organization, trade or business for which records were transferred, and ending with the date on which the transfer occurred.
  - (2) Transfer the amounts determined pursuant to paragraph (1) from the experience record and reserve account balance of the predecessor to that of the successor-in-interest.

- (c) *Benefit paid subsequent to transfer.* When an application for part transfer of the experience record and reserve account balance of an employer is filed and approved, benefits paid after the date of transfer based on wages paid before the date of transfer, in that part of the organization, trade or business transferred, shall be charged to the experience record and reserve account of the successor-in-interest.
- (d) *Part transfers.* An application for part transfer of the experience record and reserve account balance of an employer may be approved by the Bureau only if the application is filed in accordance with §63.3 (relating to required forms and time limits for applications). If the predecessor is a partnership, a majority of the partners shall sign the application, except that when the partnership consists of two individuals, both shall sign the application.

### **§63.3. Required forms and time limits for applications.**

- (a) Application for the transfer of the experience record and reserve account balance of a predecessor under the provisions of section 301(d)(1) of the Law (43 P. S. §781(d)(1)) shall be filed on the “Application for Experience Record and Reserve Account Balance of Predecessor” provided on page 3 of the Form UC-1, Employer’s Initial Statement, and accompanied by an Affidavit of Business Transfer Form (UC-745), or a copy of the bill of sale signed by both parties involved in the transfer, or in such form as to contain the essential information required. The application shall be signed by both the predecessor and the successor-in-interest.
- (b) An application for the transfer of the experience record and reserve account balance of a predecessor, either in whole or in part, shall be filed prior to the end of the calendar year immediately following the calendar year in which the transfer occurred.
- (c) When the sole business of the successor-in-interest is that which he acquires from the predecessor in a total transfer of the predecessor’s business, and the successor-in-interest, through error or inadvertence, continues to file contribution reports and pay contributions under the account number of the predecessor and at the rate determined by the Bureau to apply to the predecessor, the reporting and payment shall be considered an application for the experience record and reserve account balance of the predecessor with respect to the time limit for filing the application.

#### **Cross References**

This section cited in 34 Pa. Code §63.2 (relating to part transfers of organization, trade or business).

### **§63.4. Disapproval of applications for delinquency.**

- (a) If an application for transfer of the experience record and reserve account balance of a predecessor either in whole or in part, is filed and the predecessor is delinquent in the payment of contributions, interest or penalties due on wages paid by him as of the date the business was transferred, the Bureau shall disapprove the application if the delinquency is not paid within 30 days of the request for payment by the Bureau. The disapproval shall apply to all actions pertaining to the transfer, including the transfer of the predecessor’s contribution rate to the successor.
- (b) The transfer application may be considered if the following actions are taken within the time allowed in the Law for filing transfer applications:
  - (1) The successor-in-interest files a timely rate appeal requesting a reconsideration of the transfer application.
  - (2) The delinquency is paid not later than 30 days following the request for payment by the Bureau (following such appeal).
- (c) If a transfer application is approved the transfer shall be effective with the calendar year for which the timely rate appeal is filed.

#### **Cross References**

This section cited in 34 Pa. Code §63.44 (relating to effect upon contribution rates).

## ASSIGNMENT OF CONTRIBUTION RATES

### §63.11. General requirements.

Where an application for the transfer of the experience record and reserve account balance of a predecessor has been approved, or where the transfer has occurred as provided in section 301(d)(1)(B) of the Law (43 P. S. §781(d)(1)(B)), the contribution rates for the successor-in-interest shall be determined in accordance with the provisions of §§63.12 — 63.17.

### §63.12. Successors not formerly employers.

The successor-in-interest who prior to the transfer was not an employer during the calendar year in which the transfer occurred (referred to in this section and §§63.13 — 63.17 as the “transfer year”) shall be assigned the rate of his predecessor for the remainder of that year, if the following requirements were met:

- (1) The transfer application was filed by the successor-in-interest prior to the expiration of the rate appeal period for the transfer year (which rate appeal period expires 90 days after the mailing of the rate notice to the successor’s last known post office address) or a timely rate appeal was filed and the transfer application was filed within 30 days of notification by the Bureau of the need for such transfer application.
- (2) The predecessor paid contributions for the period required under section 301.1(b) of the Law (43 P. S. §781.1(b)), with respect to the organization, trade or business, or part thereof transferred.

#### Source

The provisions of this §63.12 amended October 22, 1971, 1 Pa.B. 2015.

#### Cross References

This section cited in 34 Pa. Code §63.11 (relating to general requirements).

### §63.13. Successors formerly employers.

Successors-in-interest who prior to the transfer were employers during the transfer year may not be assigned the rate of their predecessors for the remainder of the transfer year.

#### Cross References

This section cited in 34 Pa. Code §63.11 (relating to general requirements); and 34 Pa. Code §63.12 (relating to successors not formerly employers).

### §63.14. Rate determination in subsequent years.

For calendar years subsequent to the transfer year, the rate for the successor-in-interest shall be determined on the basis of the experience record and reserve account balance, or in case of a part transfer the appropriate portion thereof, which has been transferred from the predecessor and combined with that of the successor-in-interest, except that the rate for a successor-in-interest who has acquired a predecessor’s reserve account balance which has been adjusted to zero shall be determined in accordance with §63.16 (relating to periods of subjectivity).

#### Source

The provisions of this §63.14 amended October 22, 1971, 1 Pa.B. 2015.

#### Cross References

This section cited in 34 Pa. Code §63.11 (relating to general requirements); and 34 Pa. Code §63.12 (relating to successors not formerly employers).

### **§63.15. Determination under combined experience provisions.**

Subject to §63.16 (relating to periods of subjectivity), the first calendar year for which combination of experience shall be applicable for computing the contribution rate for the successor-in-interest shall be determined as follows:

- (1) If the transfer application is filed prior to the expiration of the rate appeal period for the calendar year immediately following the transfer year, it shall be effective beginning with the calendar year in which it is filed.
- (2) If the successor-in-interest has filed a timely application for review and redetermination of contribution rate, and filed a transfer application within 30 days of notification by the Bureau of the need for such application, it shall be effective beginning with the calendar year for which the timely appeal was filed.
- (3) If the transfer application is filed after the expiration of the rate appeal period for the calendar year immediately following the transfer year, it shall be effective beginning with the calendar year following the year in which it is filed.

#### **Cross References**

This section cited in 34 Pa. Code §63.11 (relating to general requirements); and 34 Pa. Code §63.12 (relating to successors not formerly employers).

### **§63.16. Periods of subjectivity.**

- (a) Subsequent to the transfer year, a successor-in-interest who has acquired the whole or part of the reserve account balance of a predecessor which was adjusted to zero under the provisions of section 302(c) of the Law (43 P. S. §782(c)) shall not have his rate determined on the basis of the combined experience of the predecessor and the successor-in-interest until the expiration of three calendar years following the computation date on which the predecessor's account was adjusted to zero, unless prior to the expiration of the three-year period the successor-in-interest as of any computation date meets either of the following reporting requirements:
  - (1) Has been subject under the Law for 14 or more consecutive calendar quarters.
  - (2) Has been subject under the Law for a period as long as, or longer than, the preceding employer.
- (b) A successor-in-interest whose period of subjectivity under the Law is not sufficient to meet the requirements of subsection (a) of this section shall pay contributions at the rate provided in section 301(d)(1)(D)(3) of the Law (43 P. S. §781(d)(1)(D)(3)).

#### **Source**

The provisions of this §63.16 amended October 22, 1971, 1 Pa.B. 2015.

#### **Cross References**

This section cited in 34 Pa. Code §63.11 (relating to general requirements); 34 Pa. Code §63.12 (relating to successors not formerly employers); 34 Pa. Code §63.14 (relating to rate determination in subsequent years); 34 Pa. Code §63.15 (relating to determination under combined experience provisions); and 34 Pa. Code §63.17 (relating to binding effect of transfers).

### **§63.17. Binding effect of transfers.**

A transfer of an experience record and reserve account balance, in whole or in part, having been approved by the Bureau on the basis of an application for the transfer of predecessor experience record and reserve account balance, shall be binding on both the predecessor and the successor-in-interest. The experience record and reserve account balance thus transferred shall be included with that of the successor-in-interest for determina-

tion of rates for calendar years subsequent to the year of transfer except as provided in §63.16 (relating to periods of subjectivity). The predecessor may not be entitled to adjusted rates for calendar years subsequent to the transfer year, based upon the experience record and reserve account balance which has been transferred.

#### **Source**

The provisions of this §63.17 amended October 22, 1971, 1 Pa.B. 2015.

#### **Cross References**

This section cited in 34 Pa. Code §63.11 (relating to general requirements); and 34 Pa. Code §63.12 (relating to successors not formerly employers).

### **APPLICATIONS FOR REVIEW AND REDETERMINATION OF CONTRIBUTION RATES**

#### **§63.21. Prerequisites for applications.**

An application for review and redetermination of contribution rate filed under section 301(e)(2) of the Law (43 P. S. §781(e)(2)) shall be considered only if it meets the following conditions:

- (1) It is filed within 90 days after the mailing of the contribution rate notice to the last known post office address of the employer.
- (2) The reasons set forth by the employer contain factual statements, not mere generalities, showing specifically where the contribution rate of reserve account balance is incorrect.

#### **Source**

The provisions of this §63.21 amended October 22, 1971, 1 Pa.B. 2015.

#### **Cross References**

This section cited in 34 Pa. Code §63.24 (relating to unacceptable applications); and 34 Pa. Code §63.44 (relating to effect upon contribution rates).

#### **§63.22. Supporting data.**

Employers who wish to file an application shall furnish the following type of supporting data:

- (1) To contest a ruling by the Bureau of insufficient experience, the employer shall submit information to show that his employer experience record meets the eligibility requirements of section 301.1(b) of the Law (43 P. S. §781.1(b)) for a rate of less than the standard rate provided in section 301(a)(1) (43 P. S. §781(a)(1)) or section 301(a)(3) (43 P. S. §781(a)(3)), whichever is applicable.
- (2) To contest a ruling by the Bureau of money or report delinquency, the employer shall submit information to show whether all contributions, penalties and interest due on wages paid to the end of the second quarter of the preceding calendar year have been paid. If a delinquency does exist, he may remove this cause of his ineligibility for a reduced rate by filing the reports and paying the delinquent amount within 30 days after the Bureau, in response to his request, notifies the employer of the missing reports and amounts due.
- (3) To contest the accuracy of any figures shown on the Form UC-657, Contribution Rate Notice, the employer shall submit information obtained from his records to substantiate the alleged discrepancy.

#### **Source**

The provisions of this §63.22 amended October 22, 1971, 1 Pa.B. 2015.

## Cross References

This section cited in 34 Pa. Code §63.24 (relating to unacceptable applications).

### §63.23. Unacceptable reasons.

An application for review and redetermination of contribution rate based on the following reasons shall not be approved by the Bureau:

- (1) *Questions of eligibility.*
  - (i) That claimants who caused the benefit charges were ineligible to receive unemployment compensation.
  - (ii) Questions of eligibility for compensation shall be resolved conclusively under sections 501 — 512 of the Law (43 P. S. §§821 — 832) and §65.63 (relating to filing of appeals), and the affected employers shall be notified with respect thereto.
  - (iii) Appeals raising questions of eligibility for compensation shall be filed in the manner and within the time prescribed therein. (For detailed instructions, see the reverse side of Form UC-44F, Notice of Financial Determination, which is mailed to base-year employers at the time the Bureau makes the financial determination on the application for benefits by the claimant.)
- (2) *Claimants who caused benefit charges.*
  - (i) That claimants who caused benefit charges were separated from the applicant due to being discharged for willful misconduct connected with their work or due to leaving work without good cause attributable to their employment.
  - (ii) Questions as to the right to relief from charges for these reasons shall be resolved conclusively under section 302(a) of the Law (43 P. S. §782(a)) and §§63.31 — 63.37 (relating to relief from benefit charges), and the affected employers shall be notified with respect thereto.
  - (iii) Requests raising these questions shall be filed in the manner and within the time prescribed therein. (For detailed instructions, see Form UC-44FR, Request for Relief from Charges, which is mailed to base-year employers with the Form UC-44F.)
- (3) *Benefits charged to employer's reserve account.*
  - (i) That benefits charged to the reserve account of the employer as shown on Form UC-640, Monthly Notice of Compensation Charged, are incorrect.
  - (ii) Questions as to the accuracy of benefit charges on Form UC-640, shall be resolved conclusively under section 301(e)(1) of the Law (43 P. S. §781(e)(1)), and the affected employers shall so be notified.
  - (iii) Protests contesting the accuracy of such charges shall be filed in the manner and within the time prescribed in Form UC-640. (For detailed instructions, see the reverse side of Form UC-640, Monthly Notice of Compensation Charged, which is mailed to base-year employers following the payment of unemployment compensation to their former employees.) While an application for review and redetermination of contribution rate shall not be approved on the grounds described herein while the issues of benefit eligibility or charge relief are still pending under the provisions specified, neither shall the application be disapproved pending such proceedings. In all such cases, the employer's application shall be held in abeyance until final resolution of the issue of eligibility or relief from charges as the case may be.

### Source

The provisions of this §63.23 amended April 26, 1974, 4 Pa.B. 826.

### Cross References

This section cited in 34 Pa. Code §63.24 (relating to unacceptable applications).

#### §63.24. Unacceptable applications.

- (a) Applications shall be denied for the following reasons:
- (1) Applications which are not timely filed according to §63.21(1) (relating to prerequisites for applications).
  - (2) Applications based upon the reasons in §63.23 (relating to unacceptable reasons) shall be denied and returned to the employers with letters explaining the reasons for the denial.
- (b) Applications which do not furnish the information required in §63.21(2) shall be returned to the employer with a statement of the reasons for returning such applications.
- (c) Any of the forms referred to in this section and §§63.21 — 63.23 (relating to applications for review and redetermination of contribution rates) may be obtained by writing to the Bureau of Employment Security, Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

### Source

The provisions of this §63.24 amended October 22, 1971, 1 Pa.B. 2015.

## RELIEF FROM BENEFIT CHARGES

#### §63.31. General requirement.

- (a) Whenever a claimant is paid unemployment compensation, his former employers shall be charged for the amount of benefits paid to him. These charges shall be made in proportion to the wages paid by the employer during the base year of the claimant as compared with the total wages paid by all of his employers during the same period.
- (b) An employer may exert some control over the determination of his contribution rate by maintaining and providing necessary records and information which will enable the Bureau to charge employer accounts properly and relieve charges under certain conditions.

### Cross References

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons); and 34 Pa. Code §63.32 (relating to reasons for separation).

#### §63.32. Reasons for separation.

- (a) Section 302(a) of the law (43 P. S. §782(a)) provides that a base year employer may obtain relief from the charges for benefits paid to an ex-employee as explained in §63.31 (relating to general requirement) if the claimant has separated from his most recent work for such employer due to one of the following reasons:
- (1) When the claimant leaves work without good cause attributable to his employment.
  - (2) When the claimant is discharged for willful misconduct connected with his work.
- (b) A base-year employer may obtain relief from charges for benefits paid as explained in §63.31 (relating to

general requirement) when the claimant works part-time for a base-year employer in addition to his full-time job, and such claimant, subsequent to a separation from his full-time job, continues his part-time work with the employer without a material change.

#### **Source**

The provisions of this §63.32 amended December 21, 1973, 3 Pa.B 2921. Immediately preceding text appears at serial page (9289).

#### **Cross References**

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

#### **§63.33. Information accompanying requests.**

(a) A Form UC-44FR "Request for Relief from Charges" under section 302(a) of the law (43 P. S. §782(a)) shall be submitted in writing to the Bureau of Employment Security, Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

(b) The request for relief from charges shall contain the following information:

- (1) The name and account number of the employer.
- (2) The name of the claimant.
- (3) The social security account number of the claimant.
- (4) The date of valid application for benefits by the claimant.
- (5) The local office number.
- (6) The date of financial decision.
- (7) The signature of the employer or that of his authorized representative.
- (8) The last day of work of the claimant.
- (9) The reason for the separation of the claimant from employment.

#### **Source**

The provisions of this §63.33 amended December 21, 1973, 3 Pa.B. 2921. Immediately preceding text appears at serial page (9290).

#### **Cross References**

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

#### **§63.34. Requests as to voluntary separations or discharge of employe for willful misconduct.**

(a) A request filed under section 302(a)(1) of the law (43 P. S. §782(a)(1)) shall contain a concise but comprehensive statement of facts surrounding the most recent separation of the claimant and the date of such separation from the employer requesting relief.

(b) If an employer who has applied for relief from charges because of the separation or discharge of an employe subsequently reemploys the employe, the employer shall notify the Bureau of the fact and of the date of rehire within 15 days thereof. The notification shall state the name and social security account number of the



claimant and the name and account number of the employer.

### Source

The provisions of this §63.34 amended September 17, 1976, 6 Pa.B. 2278. Immediately preceding text appears at serial page (14332).

### Cross References

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

### §63.35. Requests as to part-time workers.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Material change* — A substantial reduction in wages or in the number of hours or days ordinarily worked by the claimant employed in part-time work.

*Part-time work* — Work other than normal full-time work of a claimant with a regular base-year employer which is ordinarily performed for less than the total number of hours or days customarily worked in the business, occupation or industry.

(b) *Information.* A request filed under the provisions of this section shall contain a concise but comprehensive statement of facts concerning the part-time employment of the claimant. The statement shall include the following information:

(1) The date the claimant was hired.

(2) The number of hours or days of work and the pay available to the claimant before and after separation from the full-time job.

(c) *Certification.* The request shall be certified that the information provided is true and correct. The certification shall be signed by the employer making the request or his authorized representative.

(d) *Changes of employment situation.* If an employer who has applied for relief under section 302(a)(2) of the Law (43 P. S. §782(a)(2)) subsequently changes the employment situation of a part-time employe, it shall be the duty of the employer to notify the Bureau of such fact within 15 days. The notification shall state the name and social security account number of the claimant and the name and account number of the employer.

### Source

The provisions of this §63.35 amended through September 17, 1976, 6 Pa.B. 2278. Immediately preceding text appears at serial page (14333).

### Notes of Decisions

#### *Full-Time Work*

Claimant who 10 months after being laid off from a 40-hour per week job, accepts a 37 1/2 hour per week job is deemed employed full-time. *Watkins v. Unemployment Compensation Board of Review*, 491 A.2d 935 (Pa. Cmwlth. 1985).

### Cross References

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

### **§63.36. Time limits for filing for relief.**

- (a) Where the last separation is the basis for establishing an application for benefits, a Form UC-44FR (Request for Relief from Charges) shall be filed with the Bureau within 15 days after the date of “Financial Decision” shown on the face of the first eligible Form UC-44F (Notice of Financial Determination) as issued by the Bureau on the basis of this application for benefits.
- (b) If a claimant returns to work for a base-year employer after establishing a benefit year, that is a 52-week period beginning with the date of the first valid Application for Benefits, and is subsequently separated from employment during the benefit year, any request made by the separating employer for relief from charges must be filed within 30 days from the last day worked.
- (c) A request for relief from charges not filed within the time limitations prescribed in subsections (a) or (b) shall be effective only with respect to charges resulting from benefits paid for weeks ending 15 or more days subsequent to the date the late request is filed with the Bureau.
- (d) A request for relief from charges will be considered as filed with the Bureau on the date the request is postmarked or, if the request is otherwise delivered, on the date such request is received in the central office or in the local or district office of the Bureau.

#### **Source**

The provisions of this §63.36 amended through September 17, 1976, 6 Pa.B. 2278. Immediately preceding text appears at serial page (14334).

#### **Cross References**

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

### **§63.37. Determinations and appeals.**

The Bureau will notify employers in writing of the determinations made regarding their requests for relief from charges under section 302(a) of the Law (43 P. S. §782(a)). Employers may appeal from these determinations in the manner provided under section 501 of the law (43 P. S. §821) for appeals from benefit decisions.

#### **Cross References**

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

## **READJUSTMENT OF RESERVE ACCOUNT BALANCES**

### **§63.41. Requests.**

An employer who elects to have his debit reserve account balance adjusted to zero under sections 301.1(f) and 302(c) of the Law (43 P. S. §§781.1(f) and 782(c)) shall submit a request in writing.

### **§63.42. Time period for filing and revocability.**

- (a) A request for adjustment of a debit reserve account balance to zero shall be filed on or after January 1, but not later than April 30 of the calendar year immediately following the computation date for the determination of contribution rates.
- (b) The request may not be revocable for any cause after 10 days from date of filing.

### **§63.43. Date of filing.**

The date of filing of a request shall be considered as the date on which the request is postmarked. Should the

request be delivered in some other way the date of receipt in any field or administrative office of the Bureau shall be considered the date of filing.

#### **§63.44. Effect upon contribution rates.**

- (a) When computing contribution rates for a calendar year, the Bureau shall consider those adjustments to the reserve account or average annual payroll of an employer which are posted to the reserve account prior to the cutoff date for computing contribution rates for the year.
- (b) This section may not exclude the adjustments from a redetermination of a contribution rate filed in accordance with §63.21 (relating to prerequisites for applications) as an application for predecessor's experience record and reserve account balance filed in accordance with §63.4 (relating to disapproval of applications for delinquency).

### **REPORTS TO BE FILED**

#### **§63.51. Form UC-1.**

Form UC-1, Employer's Initial Statement, shall be filed by each employer, whether or not he is liable for the payment of contributions, for whom any individual has performed services in this Commonwealth subsequent to December 31, 1935. The form shall be filed immediately after services are first performed for the employer.

#### **§63.52. Form UC-2.**

- (a) Form UC-2, Employer's Report for Unemployment Compensation, and Form UC-2A, Employer's Quarterly Report of Wages Paid to Each Employee, shall be filed by each employer liable for the payment of contributions, on or before the last day of the month which immediately follows the end of the calendar quarter for which the reports are filed.
- (b) Form UC-2 and Form UC-2A shall be filed for each calendar quarter, whether or not the employer has paid wages during the calendar quarter.
- (c) The Bureau may require an employer who has discontinued operation of his organization, trade or business in this Commonwealth to file reports immediately upon discontinuance of an operation.
- (d) If the day on which Forms UC-2 and UC-2A are otherwise required to be filed is a Saturday, Sunday or a legal holiday, the reports may be filed on the first subsequent day which is not a Saturday, Sunday or a legal holiday.
- (e) The day on which reports are postmarked shall be deemed the day on which they are filed.
- (f) An employer who has been required to file Form UC-2 may be relieved of filing the report only upon written application to the Bureau to be so relieved. The application shall certify that he no longer furnishes employment as defined in the Law (43 P. S. §753). The Bureau may, however, relieve an employer from filing reports upon finding that the employer no longer furnishes employment as defined in the Law (43 P. S. §753), at any time, on its own motion.

### **Cross References**

This section cited in 34 Pa. Code §63.55 (relating to wages paid under Shipping Articles).

#### **§63.53. Form UC-45.**

- (a) When an employer receives Form UC-45, Notice of Application and Request for Separation Information, or Form UC-45A, Notice of Registration Renewal and Request for Separation Information, he shall complete the form and return it to the local public employment office designated on the form within 4 days from the date on which the form is received.

- (b) If an employer contemplates the separation at one time of a large number of employees a local office manager may, at his option, enter into an agreement with the employer to accept a list showing the required information, in lieu of Forms UC-45 and UC-45A.

#### **§63.54. Form UC-785.**

- (a) When an employer receives Form UC-785, Low Earnings Report, and regardless of whether he is liable for the payment of contributions, he shall complete the form and return it to the local public employment office:
- (1) Within 4 days from the date on which the form is received, if the payroll period (which includes the last day of the week being used as a basis for a claim for partial or part-total unemployment) has ended and the data required is available.
  - (2) Within 4 days from the date when the payroll period (which includes the last day of the week being used as a basis for a claim for partial or part-total unemployment) has ended and the required data are available.
- (b) The Bureau shall indicate the last day of the week on the form before sending it to the employer, and shall indicate by the wording and form as instructions for completing the form, the information which the employer is required to supply, and the manner in which it is to be supplied.

#### **§63.55. Wages paid under Shipping Articles.**

- (a) If wages are paid under Shipping Articles for services performed during one or more calendar quarters prior to the calendar quarter in which the Shipping Articles terminate, the wages shall be reported on Form UC-2A, notwithstanding §63.52 (relating to Form UC-2), and filed with the Bureau on or before the last day of the month which immediately follows the end of the calendar quarter in which the Shipping Articles terminate.
- (b) If the Bureau requests that the wages be reported prior to the due date mentioned in subsection (a), they shall be reported to the Bureau within 4 days of the receipt of the request.
- (c) The report of wages covered by the provisions of this section shall include the name of the ship on which services were performed, the dates of the voyage, and the gross wages paid, including all allowances for the calendar year in which the wages were earned.

#### **§63.56. Other reports.**

Each employer, whether or not liable for the payment of contributions, shall file from time to time any other reports as may be required of him by the Bureau in order to determine his liability or for any other purpose necessary in the administration of the provisions of the Law.

#### **§63.57. Request for time extensions.**

- (a) Employers desiring an extension of time in which to file reports or to pay contributions shall make their requests to the Bureau in writing stating reasons justifying the extension together with a statement of the period and terms of the extension desired.
- (b) All requests shall be received by the Bureau on or before the date on which the report or the contribution for which an extension is being requested is regularly due.
- (c) The Bureau may in its discretion grant or refuse the request and shall notify the employer accordingly.

#### **§63.58. Penalties for failure to file.**

The penalty for failure to file reports as provided in section 206 of the Law (43 P. S. §766) may not apply to the filing of Form UC-2 with respect to any reporting period during which the employer paid no wages subject to contributions.

## MISCELLANEOUS PROVISIONS

### §63.61. Voluntary contributions to Unemployment Compensation Fund.

- (a) Any employer who wishes to take advantage of the privilege afforded by voluntary contributions to the Unemployment Compensation Fund shall pay his voluntary contribution in strict conformity with section 302(b) of the Law (43 P. S. §782(b)). The amount shall be included in the computation or recomputation of the rate for any calendar year only if it is paid within 120 days after the beginning of the year.
- (b) Irrespective of any action by the Bureau, the employer shall be responsible for determining the amount he wishes to pay and he shall pay that amount, unconditionally, within the 120-day period.
- (c) After voluntary contributions are accepted by the Bureau, they will not be refunded or allowed as a credit to pay contributions due on taxable wages.

### §63.62. Assignment of contribution credit.

- (a) Contribution credit which arose as a result of the 1949 and 1951 experience rating amendments to the Law (43 P. S. §§781 and 781.1) may be transferred to a successor-in-interest or to any assignee. The credit shall be used solely for the payment of contributions, interest or penalties owing under the Law and may not be refunded.
- (b) Request for the assignment of nonrefundable credit shall be made by submitting the request in duplicate and shall contain the essential information required.
- (c) Credit may be transferred to more than one assignee, in which case the request shall be submitted in duplicate for each assignee.

### §63.63. Agreement to compromise.

- (a) Application for compromise of contributions, interest or penalties under the provisions of section 309.1 of the Law (43 P. S. §789.1) shall be made to the Bureau on Form UC-168, Application for Agreement to Compromise. The application shall be properly executed under oath, by the employer or his authorized representative, and shall have attached thereto and made a part thereof such additional information as the Bureau may require.
- (b) All contributions, interest and penalties, other than those for which application for compromise is being made, and all legal costs incurred by the Bureau shall be paid in full before the Bureau will give consideration to an employer's application. The amount offered in compromise shall accompany each application but the Bureau may waive this requirement when the circumstances justify the exception.

### §63.64. Records to be kept by employer.

- (a) *Content of records.* Each employer, whether or not liable for the payment of contributions, shall keep clear, accurate and complete employment and payroll records. The records shall include the following information on each worker:
  - (1) Social security account number.
  - (2) Full name.
  - (3) Wage rate (hourly, daily or piece rate, weekly, monthly or annual salary).
  - (4) Total remuneration paid for each pay period by type of payment (cash and cash value of payments in kind).
  - (5) Traveling or other business expenses actually incurred and accounted for, and the dates such expenses were incurred and were paid by the employer.
  - (6) Place of employment.

- (7) Full-time scheduled hours.
- (8) Daily attendance record, showing the dates on which the worker actually worked, and time lost due to reasons other than lack of work.
- (9) If separated, the date and the reasons for separation.

(b) *Location and retention of records.*

- (1) All employment and payroll records and supporting evidence, as well as all other business records such as cash books, journals, ledgers and corporate minutes, shall be retained either at the place of employment or at an established central recordkeeping office for at least 4 years after contributions relating to such records have been paid.
- (2) Daily attendance records need not be retained for more than 2 years.
- (3) The records shall be open for inspection and transcription by authorized representatives of the Bureau at any reasonable time and as often as may be deemed necessary. They shall be in such a condition that the information required may readily be obtained by representatives of the Bureau.

## **Subchapter B. Multistate Agreements**

Sec.

### **Miscellaneous**

63.71. Definitions.

63.72. Approval of coverage elections under the Interstate Reciprocal Coverage Agreement.

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### **Transfer of Contributions Between States**

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## **MISCELLANEOUS**

### **§63.71. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Agency* — Any officer, board, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

*Covering state* — The state to which an employer has erroneously paid contributions under the unemployment compensation law of the state with respect to wages paid for such unemployment.

*Interested agency* — The agency of an interested jurisdiction.

*Interested jurisdiction* — Any participating jurisdiction to which an election submitted under the provisions of this subchapter is sent for its approval.

*Jurisdiction* — Any state of the United States, the District of Columbia, Puerto Rico, Virgin Islands or with respect to the Federal government, the coverage of any Federal unemployment compensation law.

*Participating jurisdiction* — A jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

*Refunding state* — The state to which an employer has erroneously paid contributions under the unemployment compensation law of a participating jurisdiction.

*Services customarily performed by an individual in more than one jurisdiction* — Services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

### **§63.72. Approval of coverage elections under the Interstate Reciprocal Coverage Agreement.**

- (a) Any employer may file an election on Form RC-1, Employer's Election to Cover Multistate Workers Under the Law (43 P. S. §792) to cover under the law of a single participating jurisdiction all of the services performed for him by any individual who customarily works for him in more than one participating jurisdiction.
- (b) An election may be filed with respect to an individual with any participating jurisdiction in which:
  - (1) Any part of the services are performed.
  - (2) The individual has his residence.
  - (3) The employing unit maintains a place of business to which the services of the individual bear a reasonable relation.
- (c) The agency of the elected jurisdiction shall initially approve or disapprove the election in compliance with the following:
  - (1) If the agency approves the election, it shall forward a copy thereof to the agency of every other specified participating jurisdiction under whose unemployment compensation law the individual or individuals in question might, in the absence of the election, be covered. Each interested agency shall approve or disapprove the election as promptly as practicable and shall notify the agency of the elected jurisdiction accordingly.
  - (2) If the agency of the elected jurisdiction or the agency of any interested jurisdiction disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.
  - (3) In case its law so requires, any interested agency may, before taking action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of and have acquiesced in the election.
- (d) Elections shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. Elections approved in this manner shall take effect as to any interested agency only if it is approved by the interested agency. If election is approved only in part or is disapproved by some agencies, the electing employing unit may withdraw its election within 10 days after being notified of the action.

### **§63.73. Effective period of elections.**

- (a) *Commencement.* An election approved under the provisions of this subchapter shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election as approved specifies the beginning of a different calendar quarter.
- (b) *Termination.* The application of an election to any individual under the provisions of this subchapter shall

terminate if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one participating jurisdiction. The termination shall be effective on the closing date of the calendar quarter in which notice of the finding is mailed to all parties affected.

- (c) *Normal effect.* Except as provided by subsection (a) each election approved under the provisions of this subchapter shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.
- (d) *Notification of termination.* Whenever an election under this subchapter ceases to apply to any individual under subsections (a) and (b), the electing unit shall notify the affected individual accordingly.

#### **§63.74. Reports and notices by the electing unit.**

- (a) The electing unit shall promptly notify each individual affected by its approved election on Form RC-2 supplied by the elected jurisdiction, and shall furnish the elected agency a copy of such notice.
- (b) Whenever an individual covered by an election under the provisions of this subchapter is separated from his employment, the electing unit shall again notify him forthwith as to the jurisdiction under whose unemployment compensation law his services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify him as to the procedure for filing interstate benefit claims.
- (c) The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where the services of an individual for the employer ceases to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

#### **§63.75. Approval of reciprocal coverage elections.**

The Assistant Director for Tax Operations shall have the authority to approve or disapprove reciprocal coverage elections in accordance with the provisions of this subchapter.

### **TRANSFER OF CONTRIBUTIONS BETWEEN STATES**

#### **§63.81. Scope.**

Sections 63.82 — 63.85 shall supplement section 312 of the Law (43 P. S. §792) wherein the Bureau is authorized to enter into a reciprocal agreement with another State unemployment compensation agency for the transfer of contributions erroneously paid to one of the agreeing states.

#### **§63.82. Prerequisites to transfer.**

The refunding state shall transfer to the covering state the amount of contributions to be transferred as provided in §63.83 (relating to the amount of contributions transferred) if all the following apply:

- (1) A request for the transfer of the contributions has been made by the covering state or by the employer with the approval of the covering state.
- (2) The refunding state has determined that the remuneration with respect to which the contribution was paid was not wages for employment as defined by the law of the refunding state.
- (3) The refunding state has received from the employer a release of claim with respect to all contributions thus transferred.

#### **Cross References**

This section cited in 34 Pa. Code §63.81 (relating to scope).



### **§63.83. Amount of contributions transferred.**

(a) *Amount of contributions in general.* The amount of contributions shall be as follows:

- (1) The amount of contributions to be transferred under the provisions of this subchapter shall be the amount of contributions erroneously paid by the employer to the refunding state.
- (2) The amount shall not be more than the amount of contributions payable by the employer to the covering state with respect to the wages on which such contributions are based.
- (3) The amounts shall be further adjusted as provided under subsection (b).

(b) *Adjustments.* If the agreement under which the transfer is made provides for adjusting the amount of money to be transferred on the basis of the earnings which have accrued during the period such monies were in the possession of the refunding state, the amount shall be adjusted accordingly. If such a provision is contained in the agreement, the agreement shall provide for the same adjustment to be made whether the Commonwealth is the covering state or the refunding state.

#### **Cross References**

This section cited in 34 Pa. Code §63.81 (relating to scope); and 34 Pa. Code §63.82 (relating to prerequisites to transfer).

### **§63.84. Transfer of wage records.**

The refunding state will forward to the covering state all related wage records in its possession that may be required by the covering state for the purpose of making benefit determinations.

#### **Cross References**

This section cited in 34 Pa. Code §63.81 (relating to scope).

### **§63.85. Interest on delinquent contributions.**

- (a) Contributions transferred under the provisions of this subchapter and agreements made pursuant thereto will be deemed to have been paid to the covering state on the date such contributions were actually paid to the refunding state.
- (b) Amounts paid as interest or as penalties for late payment of contributions to refunding states will be transferred to the covering state if a request for the transfer of interest or penalties has been made by the covering state or by an employer with the approval of the covering state and if the refunding state has received a release of claim to all interest and penalties thus transferred from the employer.
- (c) Transfers will only be made to the extent that interest or penalties may be payable under the law and regulations of the covering state covering the period commencing with the date the contributions were originally required to be paid to the covering state and ending with the date on which they were actually paid to the covering state.

#### **Source**

The provisions of this §63.85 amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4168. Immediately preceding text appears at serial pages (32128) and (32129).

#### **Cross References**

This section cited in 34 Pa. Code §63.81 (relating to scope).

## Subchapter C. Nonprofit or Organizations Making Payments in Lieu of Contributions

Sec.

- 63.91. Purpose.
- 63.92. Time for compliance.
- 63.93. Filing of surety bond.
- 63.94. Filing of security deposit.
- 63.95. Moneys or securities received.
- 63.96. [Reserved].
- 63.97. Return or sale of moneys or securities.
- 63.98. Refunds and adjustments.
- 63.99. Assignment of rate of contribution.
- 63.100. Supplements to payments.

### Source

The provisions of this Subchapter C adopted March 3, 1972, 2 Pa.B. 404, unless otherwise noted.

#### §63.91. Purpose.

This subchapter is intended to effectuate those provisions of the law which deal with filing a surety bond or depositing money or securities of equal value with the Department when a nonprofit organization elects to become liable for payments in lieu of contributions.

#### §63.92. Time for compliance.

Nonprofit organizations electing to make payments in lieu of contributions shall comply with this subchapter within 30 days from the effective date of the election.

#### §63.93. Filing of surety bond.

Nonprofit organizations subject to the provisions of this subchapter electing to file a surety bond shall file with the local Field Accounting Office of the Bureau a surety bond equal to 1.0% of the employer's taxable wages paid for subject employment for the most recent four calendar quarters prior to the election to make payments in lieu of contributions or a surety bond in an amount set by the Department, such bond to be executed by an approved bonding company.

### Source

The provisions of this §63.93 amended September 24, 1976, 6 Pa.B. 2395. Immediately preceding text appears at serial page (9304).

### Cross References

This section cited in 34 Pa. Code §63.94 (relating to filing of security deposit).

#### §63.94. Filing of security deposit.

In lieu of a surety bond, as prescribed in §63.93 (relating to filing of surety bond), nonprofit organizations subject to this subchapter may deposit moneys, in the form of bank-guaranteed checks payable to the Department of Labor and Industry or securities of equal present monetary value, of a kind acceptable to the Bureau, with the local Field Accounting Office of the Bureau, for transmittal to the Department in Harrisburg. A written receipt will be given to the employer depositing such moneys or securities. A copy of the receipt will be forwarded to the Bureau Accounting Division in Harrisburg and a copy retained in the local Field Accounting Office. Reference should also be made to §§63.95 — 63.97 (relating to moneys or securities received, securities pledged and return or sale of moneys or securities).

### **§63.95. Moneys or securities received.**

- (a) *Moneys received.* The Department will deposit all moneys received with the State Treasurer, Commonwealth of Pennsylvania. Any interest thereon shall accrue to the employer.
- (b) *Securities received.* Securities received will be deposited with the State Treasurer of the Commonwealth. The securities shall be assigned to the Department and be negotiable by the Department at any time. Interest or dividends accruing thereon shall be the property of the owner of the securities.

#### **Cross References**

This section cited in 34 Pa. Code §63.94 (relating to filing of security deposit).

### **§63.96. [Reserved].**

#### **Source**

The provisions of this §63.96 reserved February 29, 1980, effective March 1, 1980, 10 Pa.B. 912.

#### **Cross References**

This section cited in 34 Pa. Code §63.94 (relating to filing of security deposit).

### **§63.97. Return or sale of moneys or securities.**

Any deposit of moneys or securities received will be held until the organization's liability for payments is terminated. Upon termination of liability the deposit will be returned, minus any amount, including interest and penalty, due the Department. The Department is authorized to sell securities deposited to satisfy any amount due. All securities pledged to the Department but held in escrow will be released through written advice by the Department upon termination of liability as a reimbursing nonprofit employer, but only if all amounts due have been paid.

#### **Cross References**

This section cited in 34 Pa. Code §63.94 (relating to filing of security deposit).

### **§63.98. Refunds and adjustments.**

Reimbursement payments in lieu of contributions collected from an employer for the amount of benefits charged to his account may not be deemed to be erroneously collected and subject to refund or credit of any amount paid until the amount is recovered from the claimant.

### **§63.99. Assignment of rate of contribution.**

A 2% rate will be assigned to employers who elect the reimbursement method of payment and subsequently choose to convert to contributory status. The employer will be treated as a "new or newly covered" employer during the period in which he was in reimbursement status, and this period will not be taken into account for any of the purposes of experience rating. The entry rate of 2% is available only on the occasion of the first conversion from reimbursement to contributory status. Thereafter, the rate of contribution may not be less than the standard rate subject to adjustment under section 301.1 of the Law (43 P. S. §801.1).

#### **Source**

The provisions of this §63.99 amended March 7, 1975, 5 Pa.B. 441. Immediately preceding text appears at serial page (13477).

### **§63.100. Supplements to payments.**

This section shall supplement the list of payments made into the Unemployment Compensation Fund under section 601 of the Law (43 P. S. §841), as follows:

- (1) Payments in lieu of contributions collected under the law.
- (2) Moneys collected from the Federal Government as reimbursements under section 204 of the Federal-State Extended Compensation Act of 1970 (26 U.S.C.A. §3301 et seq.).

### Cross References

This section cited in 34 Pa. Code §63.94 (relating to filing of security deposit).

## Chapter 65. Employe Provisions

Subchap./Sec.

- A. General Provisions/65.1
- B. Prerequisites for Eligibility/65.11
- C. Application Procedure/65.31
- D. Partial Unemployment and Deceased or Incompetent Claimants/65.71
- E. Eligibility in Conjunction with Other Payments/65.91
- F. Computations/65.111
- G. Interstate Claims/65.131
- H. Allowances for Dependents/65.151

### Notes of Decisions

#### *School Employes*

It is well settled that teachers and other school employes not working during term breaks who can reasonably expect to return are not entitled to unemployment compensation benefits. Therefore, the Board of Unemployment Compensation appropriately denied claimants' request for unemployment where budget constraints forced a cutback in the summer program, but where all claimants were offered jobs in the fall. *Croft v. Unemployment Compensation Board of Review*, 662 A.2d 24 (Pa. Comwlth. 1995).

## Subchapter A. General Provisions

Sec.

65.1. Definitions.

### §65.1. Definitions.

In addition to the terms defined in §61.1 (relating to definitions), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Agent state* — A state in which an individual files a claim for benefits from another state.

*Benefits* — Compensation payable to an individual with respect to the individual employment, under the unemployment insurance law of a state.

*Interstate Benefit Payment Plan* — The plan approved by the Interstate Conference of Employment Security Agencies, under which benefits are payable to unemployed individuals absent from the state in which benefit credits have been accumulated.

*Interstate claimant* — An individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term does not include an individual who customarily commutes from a residence in an agent state to work in a liable state unless the Bureau finds that this exclusion would create undue hardship on the claimants in specified areas.

*Liable state* — A state against which an individual files, through another state, a claim for benefits.

*Registered for work* — When a claimant has appeared at a regularly established public employment office and has completed and signed an Application for Benefits, Form UC-42; and when, upon request, he has furnished that office with the accepted title for the occupations at which he is usually employed.

*Registration for work* — When an individual has appeared in person at a public employment office and has furnished that office with his name, usual occupation and correct post office address and has declared his availability for suitable work.

*State* — The term includes Puerto Rico, the Virgin Islands and the District of Columbia.

*Week of unemployment* — Any week of unemployment as defined in the law of the liable state from which benefits with respect to the week are claimed.

### Source

The provisions of this §65.1 adopted July 1, 1969; amended September 15, 1972, effective September 16, 1972, 2 Pa.B. 1731.

### Cross References

This section cited in 34 Pa. Code §65.11 (relating to effective period).

## Subchapter B. Prerequisites for Eligibility

Sec.

### Registration for Work

- 65.11. Effective period.
- 65.12. Registration renewals.
- 65.13. Predated claims.
- 65.14. Additional information.
- 65.15. Claims filed in other states.

### Offers of Suitable Work

- 65.21. Disqualification for benefits.
- 65.22. Applicable rules.

## REGISTRATION FOR WORK

### Notes of Decisions

#### *Disqualification*

A claimant may be disqualified from receiving compensation only for those amounts overpaid during those weeks in which the claimant's failure to disclose income from part-time employment affected the amount of her benefits. *Schaeffer v. Unemployment Compensation Board of Review*, 467 A.2d 67 (Pa. Cmwlth. 1983).

#### §65.11. Effective period.

A registration for work created by the actions stated in §65.1 (relating to definitions) shall continue in effect as follows:

- (1) For a period of 3 weeks following the date of the valid application for benefits.
- (2) As long as the claimant continues to file claims for weeks of unemployment ending at intervals of not

more than 3 weeks, the first of which claims was for a week ending within the 3 week period following the date of the valid application for benefits.

#### **Source**

The provisions of this §65.11 adopted July 1, 1969.

#### **§65.12. Registration renewals.**

- (a) If, during the claim-filing period, commencing with the date of the valid application for benefits, the interval between claims exceeds 3 weeks, the claimant shall renew his registration for work by appearing at a regularly established public employment office and completing and signing a Notice of Registration Renewal and Request for Separation Information, Form UC-45A.
- (b) The registration for work resulting from a registration renewal shall continue in effect in the same manner and under the same conditions as a registration for work resulting from an application for benefits.

#### **Source**

The provisions of this §65.12 adopted July 1, 1969.

#### **§65.13. Predated claims.**

- (a) Registration renewals may be predated for the same reasons and the same periods of time permitted for an application for benefits, as provided by §§65.41 — 65.43 (relating to procedure; date of filing; and places of filing).
- (b) If an application for benefits, a registration renewal or a claim for a week of unemployment filed by a claimant is predated for any reason given in this subsection, the requirement that the claimant is registered for work will be waived for the number of weeks specified for the applicable reason, or for the total of the specified number of weeks for the applicable reasons where there is a combination of more than one reason and in each instance the term week means the calendar week, Sunday through Saturday, immediately preceding the week, which includes the day on which the application for benefits, registration renewal or claim was actually filed:
  - (1) The inaccessibility of the local public employment office, or the infrequency of the periodic itinerant service established for the area in which the claimant is filing his application or claim, shall permit a waiver of not more than 2 weeks.
  - (2) The closing of an office due to a Sunday or holiday shall permit a waiver of not more than 2 weeks.
  - (3) The inability of the office to take the claimant's application or claim on the day he reported for that purpose or the postponement of application or claims taken by the office for administrative reasons shall permit a waiver of not more than 6 weeks.
  - (4) The refusal of the office to accept the application or claim as a result of an error or mistake shall permit a waiver of not more than 52 weeks.
  - (5) Pending determination of the eligibility of similarly situated employees under section 402(d) of the law (43 P. S. §802(d)) if the application or claim is filed within 6 weeks after the determination has become final.
  - (6) The claimant's failure to file an application for benefits or registration renewal due to erroneous advice by his employer that he would be recalled to work within 1 week shall permit a waiver for not more than 2 weeks.
  - (7) The claimant's failure to file a claim for a week of unemployment due to sickness of the claimant, a

sickness or death of another member of the claimant's family, or an act of God shall permit a waiver for not more than 2 weeks.

- (8) The claimant's failure to file a claim for a week of unemployment if the claimant became employed shall permit a waiver for not more than 4 weeks.
- (9) If the claimant files for a week of partial unemployment a waiver for that week shall be permitted regardless of when the claim is actually filed.

(c) The period of time during which the registration for work is waived may not exceed the period of time by which the application for benefits, registration renewal or claim, was predated, nor may the effective date of the registration for work be a day previous to the date of the application for benefits, registration renewal or the first day of a week of unemployment with respect to which a claim is filed.

#### **Source**

The provisions of this §65.13 adopted July 1, 1969; amended September 27, 1974, effective September 28, 1974, 4 Pa.B. 2077; amended July 25, 1975, effective July 26, 1975, 5 Pa.B. 1920. Immediately preceding text appears at serial pages (18416) to (18417).

#### **§65.14. Additional information.**

Nothing in this subchapter shall be construed to prevent the Department from requiring of a claimant additional information with respect to his work history and occupational aptitudes in a manner and on forms which it may require.

#### **Source**

The provisions of this §65.14 adopted July 1, 1969.

#### **§65.15. Claims filed in other states.**

A claimant, filing claims in another state under the section 312 of the law (43 P. S. §792), will be considered to have registered for work when he has complied with the registration for work requirements of the state in which he is filing his claim. Registration for work shall continue in effect for the length of time provided by the laws, regulations and procedures of the state in which he is filing his claim.

#### **Source**

The provisions of this §65.15 adopted July 1, 1969.

### **OFFERS OF SUITABLE WORK**

#### **§65.21. Disqualification for benefits.**

In accordance with the provisions of section 402(a) of the law (43 P. S. §802), an employe shall be ineligible for benefits for any week in which he is unemployed because he has refused without good cause an offer for suitable work made either by the local public employment office or by an employer who notifies the employment office within 7 working days of his offer to the potential employe.

#### **Source**

The provisions of this §65.21 adopted July 1, 1969; amended December 20, 1974, effective December 21, 1974, 4 Pa.B. 2567. Immediately preceding text appears at serial page (9311).

## Notes of Decisions

### *Good Cause*

When the employe of a temporary employment agency did not report for her assigned work because she mistakenly believed that the assigned work had been cancelled, she did not have “good cause” for not reporting where she did not call the employment agency to make sure that the assignment had indeed been cancelled. *MacDonald v. Unemployment Compensation Board of Review*, 333 A.2d 199 (Pa. Cmwlt. 1975).

### *Notification by Employer*

It is error to grant compensation to an applicant merely because an employer did not properly notify the Bureau of an employe’s failure to accept a work assignment. *MacDonald v. Unemployment Compensation Board of Review*, 333 A.2d 199 (Pa. Cmwlt. 1975).

After the Board determines that an offer of suitable employment was refused, it is without authority, absent a showing of prejudice, to grant compensation merely because the form of the notice of an offer of work by a claimant’s prior employer was defective. *General Motors Corp. v. Unemployment Compensation Board of Review*, 322 A.2d 762 (Pa. Cmwlt. 1974).

### **§65.22. Applicable rules.**

(a) With respect to offers of suitable work made by an employer, the following rules apply:

- (1) A work offer may be considered as suitable irrespective of whether the work is in employment as defined in sections 4 and 402(a) of the law (43 P. S. §§753 and 802(a)).
- (2) The notification shall be made to the local public employment office at which the employe has filed or may file an application for benefits or a registration renewal.
- (3) The offer to the employe may be in writing in which case a carbon copy or an exact duplicate shall be furnished to the employment office within 7 working days after the mailing of the offer. If the employer’s offer is not made in writing, as, for example, where it is made by telephone, the employer shall provide the employment office with a detailed written description of the offer within 7 working days after the making thereof. Regardless of the manner in which the offer is communicated to the employe, it shall include all of the following:
  - (i) The rate of pay and unit of work or period of time which the rate represents.
  - (ii) The scheduled working hours during each day of the week.
  - (iii) The location of the work.
  - (iv) A description of the duties or a generally recognized term covering the duties.
  - (v) An unusual requirement or condition of work.

(b) Where the employer who makes the offer has employed the employe after the beginning of the employe’s base year and, in his offer of employment to the employe, states that the conditions of the job are substantially the same as those under which the employe last worked for the employer, the requirements enumerated in subsection (a) are not required to be included.

(c) If the job offered the employe is covered under a labor-management agreement and a statement to this effect is made in the offer of employment, no further description will be required.

(d) It will be the responsibility of the Department, before issuing a decision on a claim for benefits, to determine on the basis of facts whether the work offer was suitable within the meaning of section 4(t) of the law (43 P. S. §753(t)).



## Source

The provisions of this §65.22 adopted July 1, 1969; amended December 20, 1974, effective December 21, 1974, 4 Pa.B. 2567. Immediately preceding text appears at serial pages (9311) and (13479).

## Notes of Decisions

### *Work Offer*

It is error to grant compensation to an applicant merely because an employer did not properly notify the Bureau of the failure of an employe to accept a work assignment. *MacDonald v. Unemployment Compensation Board of Review*, 333 A.2d 199 (Pa. Cmwlt. 1975).

After the Board determines that an offer of suitable employment was refused, it is without authority, absent a showing of prejudice, to grant compensation merely because the form of the notice of an offer of work by a claimant's prior employer was defective. *General Motors Corp. v. Unemployment Compensation Board of Review*, 322 A.2d 762 (Pa. Cmwlt. 1974).

## Subchapter C. Application Procedure

Sec.

### Claims for Compensation

- 65.31. Filing.
- 65.32. Week of unemployment.
- 65.33. Predating.
- 65.34. [Reserved].
- 65.35. Ineligibility.

### Application for Benefits

- 65.41. Procedure.
- 65.42. Date of filing.
- 65.43. Places of filing.
- 65.44. Information as to eligibility.
- 65.51. [Reserved].
- 65.52. [Reserved].
- 65.53. [Reserved].
- 65.54. [Reserved].
- 65.55. [Reserved].

### Decisions and Disqualifications

- 65.61. Opportunity for refutations.
- 65.62. Duration of disqualification.
- 65.63. Filing of appeals.

## CLAIMS FOR COMPENSATION

### §65.31. Filing.

Claims for compensation shall be filed personally by the claimant on official forms available for that purpose at local public employment offices, Monday through Friday, unless closed due to a holiday or by official pronouncement.

## Source

The provisions of this §65.31 adopted July 1, 1969; amended September 15, 1972, effective September 16, 1972, 2 Pa.B. 1731; amended July 13, 1973, effective July 14, 1973, 3 Pa.B. 1309. Immediately preceding text appears at serial page (9312).

## Notes of Decisions

Because the unemployment compensation claimant's backdating of an application for unemployment benefits could not be justified on the basis that the employer misrepresented about eligibility for benefits, claimant's application was considered untimely. *Mitchelree v. Unemployment Compensation Board of Review*, 635 A.2d 701 (Pa. Cmwlth. 1993).

A claimant has not complied with the reporting requirements if he is aware of the reporting requirements but only visits the local office informally and irregularly and merely keeps a friend who works at the office apprised of his situation on an informal basis. *Zinicola v. Unemployment Compensation Board of Review*, 407 A.2d 474 (Pa. Cmwlth. 1979).

### §65.32. Week of unemployment.

- (a) The week of unemployment with respect to which a claim is filed shall be the calendar week preceding the week which includes the day on which the claim is actually or constructively filed; except that those individuals who are filing claims for compensation for a period of unemployment which began prior to the effective date of this section shall continue to file claims for weeks of any 7 consecutive days for as long as that period of unemployment continues and they are otherwise eligible.
- (b) Notwithstanding the provisions contained in this section, the local offices shall insure that claimants be scheduled to report for the purpose of processing the first compensable week of their application on the first local office work day possible within the applicable time limits of this section regardless of the last digit of their Social Security number. Thereafter, claimants may be rescheduled in accordance with the digit reporting schedule.

## Source

The provisions of this §65.32 adopted July 1, 1969; amended September 15, 1972, effective September 16, 1972, 2 Pa.B. 1731; amended July 13, 1973, effective July 14, 1973, 3 Pa.B. 1309. Immediately preceding text appears at serial pages (9313) to (9314).

## Notes of Decisions

### *Reporting Requirements*

A claimant has not complied with the reporting requirements if he is aware of the reporting requirements but only visits the local office informally and irregularly and merely keeps a friend who works at the office apprised of his situation on an informal basis. *Zinicola v. Unemployment Compensation Board of Review*, 407 A.2d 474 (Pa. Cmwlth. 1979).

### *Timeliness*

Because the unemployment compensation claimant's backdating of an application for unemployment benefits could not be justified on the basis that the employer misrepresented about eligibility for benefits, claimant's application was considered untimely. *Mitchelree v. Unemployment Compensation Board of Review*, 635 A.2d 701 (Pa. Cmwlth. 1993).

### §65.33. Predating.

- (a) A claim for a week of total, partial or part-total unemployment may be deemed to be constructively filed as of

the first day of a calendar week previous to the week which includes the day on which it is actually filed when, in the opinion of the Bureau, the claimant was prevented, through no fault of his own, from filing his claims during the week immediately subsequent to the week for which the claim is filed because of one or more of the following reasons:

- (1) The inability of the local public employment office to handle currently all claims, or the postponement of claims-taking by the local office for administrative reasons shall permit not more than 6 weeks of pre-dating.
  - (2) The inaccessibility of the office in isolated areas, or the infrequency of the periodic itinerant service established for the area in which the claimant resides shall permit not more than 2 weeks of pre-dating.
  - (3) The closing of an office due to a holiday or by official pronouncement shall permit not more than 2 weeks of pre-dating.
  - (4) The refusal of an office to accept a claim as a result of an error or mistake shall permit not more than 52 weeks of pre-dating.
  - (5) Sickness or death of another member of the claimant's immediate family or an act of God shall permit not more than 2 weeks of pre-dating, provided the claimant was available for work during the week for which the claim is being filed.
  - (6) Illness or injury which incapacitates the claimant shall permit pre-dating for the duration of the incapacitation plus 2 weeks but in no instance for more than 52 weeks, provided the claimant meets the eligibility requirements during the week for which the claim is being filed.
  - (7) If the claimant is employed not more than 4 weeks of pre-dating shall be permitted. Where a claimant is filing claims for partial or part-total benefits not more than 4 weeks pre-dating shall be permitted, commencing with the date on which the employer paid wages for the claim week in question.
  - (8) An appeal of a claimant from disqualification may permit not more than 4 weeks of pre-dating while the appeal is pending.
- (b) When a combination of more than one of the reasons outlined in subsection (a) has prevented the claimant from filing a claim and adherence to the most liberal limitation applicable to his case would be inequitable to the claimant, the pre-dating provisions for applicable reasons shall be added and pre-dating to the number of weeks which is equal to the sum of all applicable limitations shall be permitted.
- (c) A claim for a week of total or part-total unemployment may be deemed to be constructively filed as of the first day of a calendar week previous to the week which includes the day on which it is actually filed, when a determination of the eligibility of similarly situated employees under section 402(d) of the law (43 P. S. §802(d)) is pending, provided that the claim is filed within 6 weeks after the determination has become final.

### **Source**

The provisions of this §65.33 adopted July 1, 1969; amended September 15, 1972, effective September 16, 1972, 2 Pa.B. 1731; amended March 29, 1974, effective March 30, 1974, 4 Pa.B. 581; amended July 25, 1975, effective July 26, 1975, 5 Pa.B. 1920. Immediately preceding text appears at serial pages (19128) to (19129).

### **Notes of Decisions**

#### *Conflict*

A conflicting appointment with an employment counselor is not an acceptable reason for not reporting a claim for a week, especially since the applicant could have kept the appointment with the counselor as well as her scheduled appointment at the offices of the Bureau some other time of that day. *Seibert v. Unemployment Compensation Board of Review*, 403 A.2d 1369 (Pa. Cmwlth. 1979).

## Delay

Claimant was not entitled to 2 weeks of predating pursuant to subsection (a)(5) of this section following the death of claimant's father, because the regulation gives claimants only a 2-week reprieve to take care of family matters, and did not excuse claimant's 5-month failure to file for benefits. *Ascheim v. Unemployment Compensation Board of Review*, 694 A.2d 4 (Pa. Cmwlth. 1997).

## Misrepresentation by Employment Office

Claimant failed to meet his burden of showing that he was misled or prevented from filing claims for the weeks at issue, where he admitted that he received and read the unemployment compensation handbook which sets forth the reporting requirements, he assumed on his own that he was no longer eligible for benefits due to the receipt of a pension, and there was no evidence or testimony that anyone connected to the Job Center prevented the claimant from filing claims. *Menalis v. Unemployment Compensation Bd. of Review*, 712 A.2d 804 (Pa. Cmwlth. 1998).

Because an unemployment compensation claimant's backdating of an application for unemployment benefits could not be justified on the basis that the employer made misrepresentations about eligibility for benefits, claimant's application was considered untimely. *Mitchelree v. Unemployment Compensation Board of Review*, 635 A.2d 701 (Pa. Cmwlth. 1993).

## Cross References

This section cited in 34 Pa. Code §65.42 (relating to date of filing).

### §65.34. [Reserved].

#### Source

The provisions of this §65.34 adopted July 1, 1969; reserved March 29, 1974, effective March 30, 1974, 4 Pa.B. 581. Immediately preceding text appears at serial pages (13481) to (13482).

### §65.35. Ineligibility.

An employe shall be ineligible for compensation for any week with respect to which or a part of which he has received or is seeking compensation under the provisions of an unemployment compensation law of any other state or of the United States. If it is finally determined that he is not entitled to compensation for the week this disqualification does not apply.

#### Source

The provisions of this §65.35 adopted July 1, 1969; amended September 15, 1972, effective September 16, 1972, 2 Pa.B. 1731.

## APPLICATION FOR BENEFITS

### §65.41. Procedure.

- (a) Applications for benefits shall be filed on Form UC-42 in local public employment offices, Monday through Friday, unless closed due to a holiday or by official pronouncement.
- (b) Claimants reporting to file new applications for benefits shall be served and their claims processed on the day they report, or are scheduled to report, regardless of the last digit of their Social Security numbers, unless it is factually determined that rescheduling, within applicable time limits of this section, is deemed necessary by the local office manager for administrative reasons.
- (c) An application for benefits may be deemed to be constructively filed as of the first day of a calendar week

previous to the week which includes the day on which it is actually filed when, in the opinion of the Bureau, the claimant was prevented or persuaded, through no fault of his own, from filing the application because of one of the following reasons; and in each instance the term week or weeks means the calendar week or weeks, Sunday through Saturday.

- (1) The inaccessibility of the local public employment office in isolated areas, or the infrequency of the periodic itinerant service established for the area in which the claimant is filing an application shall permit not more than 2 weeks of predating.
  - (2) The closing of an office due to a holiday or by official pronouncement may permit not more than 2 weeks of predating.
  - (3) The inability of an office to take the claimant's application on the day on which he reported for the purpose, or the postponement of application taken by the office for administrative reasons may permit not more than 6 weeks of predating.
  - (4) Erroneous advice by his employer that he would be recalled to work within 1 week may permit not more than 2 weeks of predating.
  - (5) The refusal of the office to accept the application as a result of an error or mistake shall permit not more than 52 weeks of predating.
- (d) Notwithstanding the criteria set forth in this section establishing maximum time limitations to and reasons for backdating an application for benefits, and for the purpose of insuring prompt adjudication of each application, the local employment office shall schedule or reschedule claimants, regardless of the last digit of their Social Security numbers, to report on the first local office work day possible within the applicable time limits of this section following the day on which their failure or inability to report was due to a reason specified in this section.
- (e) An application for benefits may be deemed to be filed as of the first day of a calendar week previous to the week which includes the day on which it is actually filed, when a determination of the eligibility of similarly situated employes under section 402(d) of the law (43 P. S. §802(d)) is pending, provided that the application is filed within 6 weeks after the determination has become final.

### Source

The provisions of this §65.41 adopted July 1, 1969; amended October 22, 1971, effective October 23, 1971, 1 Pa.B. 2016; amended September 15, 1972, effective September 16, 1972, 2 Pa.B. 1731; amended March 29, 1974, effective March 30, 1974, 4 Pa.B. 581; amended July 25, 1975, effective July 26, 1975, 5 Pa.B. 1920. Immediately preceding text appears at serial pages (15238) to (15239).

### Notes of Decisions

#### *Backdating*

Because the unemployment compensation claimant's backdating of an application for unemployment benefits could not be justified on the basis that the employer misrepresented about eligibility for benefits, claimant's application was considered untimely. *Mitchelree v. Unemployment Compensation Board of Review*, 635 A.2d 701 (Pa. Cmwlth. 1993).

A claimant's application for Trade Readjustment Assistance (TRA) benefits may not be backdated more than 52 weeks due to misinformation by a State employe unless the misinformation constitutes gross negligence or fraud. *Sturni v. Unemployment Compensation Board of Review*, 625 A.2d 727 (Pa. Cmwlth. 1993).

Claimant was not misled by OES in regard to proper reporting requirements and she could not rely on a backdating of an application for benefits. *Strichko v. Unemployment Compensation Board of Review*, 547 A.2d 496 (Pa. Cmwlth. 1988).

The failure of §65.41 to permit predating for incapacitation due to illness or injury is not violative of section 3 of the Unemployment Compensation Law (43 P. S. §752). *Edwards v. Unemployment Compensation Board of Review*, 426 A.2d 237 (Pa. Cmwlth. 1981).

### *Predating*

Section 65.41(c)(5) bars recovery in the absence of the Bureau's gross negligence or willful and wanton misrepresentation amounting to fraud. *Kear v. Unemployment Compensation Board of Review*, 397 A.2d 468 (Pa. Cmwlth. 1979).

### *Reporting Requirements*

A conflicting appointment with an employment counselor is not an acceptable reason for not reporting a claim for a week, especially since the applicant could have kept the appointment with the counselor as well as her scheduled appointment at the Bureau's offices some other time of that day. *Seibert v. Unemployment Compensation Board of Review*, 403 A.2d 1369 (Pa. Cmwlth. 1979).

### *Validity*

Section 65.41(c)(5) is neither unreasonable nor inconsistent with the purposes of the Unemployment Compensation Law. *Kear v. Unemployment Compensation Board of Review*, 397 A.2d 468 (Pa. Cmwlth. 1979).

## **Cross References**

This section cited in 34 Pa. Code §65.13 (relating to predated claims); and 34 Pa. Code §65.42 (relating to date of filing).

### **§65.42. Date of filing.**

- (a) Notwithstanding the provisions of §65.41(b) (relating to procedure) an application for benefits shall be deemed to be filed as of the first day of any week for which a claim is filed for compensation for partial unemployment within the time limits prescribed under §65.33 (relating to predating), if the claimant has not previously established a benefit year applicable to that week.
- (b) A claim for a week of total or part-total unemployment may not be filed with respect to an application for benefits which is prior to the first day of the week which includes the day on which the application for benefits is actually filed, except within the time limits prescribed in §65.41(b) and (c).

## **Source**

The provisions of this §65.42 adopted July 1, 1969; amended March 29, 1974, effective March 30, 1974, 4 Pa.B. 581. Immediately preceding text appears at serial page (13484).

## **Cross References**

This section cited in 34 Pa. Code §65.13 (relating to predated claims).

### **§65.43. Places of filing.**

Notwithstanding the provisions of this chapter that applications for benefits, claims and work registrations shall be filed at local public employment offices, the Bureau may accept applications for benefits, claims and work registration at any other places which may be advisable and expedient.

## **Source**

The provisions of this §65.43 adopted July 1, 1969.

## Notes of Decisions

### Places

The provisions of §65.43 authorize the Bureau to provide for receiving applications and registrations in places other than public employment offices, but do not empower a claimant to determine where his weekly reporting and filing are to be done or which public employment office he will use for that purpose. *Regoli v. Unemployment Compensation Board of Review*, 427 A.2d 1275 (Pa. Cmwlth. 1981).

### Cross References

This section cited in 34 Pa. Code §65.13 (relating to predated claims).

#### **§65.44. Information as to eligibility.**

A base-year employer or last employer, who, under the provisions of section 501(c) of the law (43 P. S. §821(c)), desires to raise a question as to the eligibility of a claimant, may do so only in writing delivered to the local public employment office indicated on the form by which he has been notified that the claimant has filed an application for benefits.

#### **Source**

The provisions of this §65.44 adopted July 1, 1969.

#### **§65.51. [Reserved].**

#### **Source**

The provisions of this §65.51 adopted July 1, 1969; reserved September 17, 1976, effective September 18, 1976, 6 Pa.B. 2279. Immediately preceding text appears at serial page (27683).

#### **§65.52. [Reserved].**

#### **Source**

The provisions of this §65.52 adopted January 14, 1972, effective January 15, 1972, 2 Pa.B. 59; reserved September 17, 1976, effective September 18, 1976, 6 Pa.B. 2279. Immediately preceding text appears at serial page (27683).

#### **§65.53. [Reserved].**

#### **Source**

The provisions of this §65.53 adopted January 14, 1972, effective January 15, 1972, 2 Pa.B. 59; reserved September 17, 1976, effective September 18, 1976, 6 Pa.B. 2279. Immediately preceding text appears at serial page (27683).

#### **§65.54. [Reserved].**

#### **Source**

The provisions of this §65.54 adopted January 14, 1972, effective January 15, 1972, 2 Pa.B. 59; reserved September 17, 1976, effective September 18, 1976, 6 Pa.B. 2279. Immediately preceding text appears at serial page (27683).

#### **§65.55. [Reserved].**

## Source

The provisions of this §65.55 adopted July 1, 1969; reserved September 17, 1976, effective September 18, 1976, 6 Pa.B. 2279. Immediately preceding text appears at serial page (27684).

## DECISIONS AND DISQUALIFICATIONS

### §65.61. Opportunity for refutations.

The Bureau will not issue a decision invalidating a claim until the claimant has been given an opportunity to refute any alleged facts or circumstances which are being considered as a basis for invalidating his claim.

## Source

The provisions of this §65.61 adopted July 1, 1969.

### §65.62. Duration of disqualification.

- (a) A claimant who has been determined ineligible for compensation under section 402(a) of the law (43 P. S. §802(2)) shall remain ineligible for compensation until he obtains subsequent employment which is not of a temporary or casual nature.
- (b) When a claimant has been declared ineligible because of a refusal of temporary or casual employment, the ineligibility shall continue only for the period of time that work would have been furnished.
- (c) A claimant who has been determined ineligible for compensation under the provisions of section 3 of the law (43 P. S. §752) shall remain ineligible until he has earned, subsequent to the separation from work which was disqualifying under such section, remuneration for services in an amount equal to or in excess of six times his weekly benefit amount.

## Source

The provisions of this §65.62 adopted July 1, 1969; amended June 11, 1976, effective June 12, 1976, 6 Pa.B. 1329. Immediately preceding text appears at serial page (9318).

## Notes of Decisions

### *Temporary Employment*

The limitation on ineligibility provided by subsection (b) applies to claimants who refuse temporary or casual employment opportunities, and does not confer eligibility upon employes disqualified as a matter of law under section 402(b). Awarding this claimant benefits would be advocating a system under which any employe could quit employment and still be eligible to receive compensation benefits by establishing a future departure date despite leaving employment in advance of that date. Thus, a law student who knowingly enters into a temporary part-time employment arrangement with a law firm, voluntarily leaves that employment prior to the end of the specified period to study for exams, fails to request extension of the letter agreement or to seek regular full-time employment with the law firm upon graduation, does not fall within the class of employes the legislature intended to protect. *Evans v. Unemployment Compensation Board of Review*, No. 3035 C. D. 1993, 1995 Pa. Cmwlth. LEXIS 435 (September 18, 1995).

Employe who refuses to report to an interview for temporary employment because the employe was only interested in permanent employment has, without good cause, failed to pursue a referral of suitable employment and, under subsection (b), is ineligible to receive unemployment benefits for the entire period of time such temporary work would have been furnished. *Raffaele v. Unemployment Compensation Board of Review*, 465 A.2d 85 (Pa. Cmwlth. 1983).



## Voluntary Termination

Employee who voluntarily terminated a permanent job to seek treatment for nerves was not eligible for benefits. *Weaver v. Unemployment Compensation Board of Review*, 544 A.2d 554 (Pa. Cmwlth. 1988).

### §65.63. Filing of appeals.

Appeals filed under the provisions of section 501(e) of the law (43 P. S. §821(e)) and further appeals filed under the provisions of section 502 of the law (43 P. S. §822) shall be filed through the local public employment office at which the claimant has filed his application or claim with respect to which the appeal is taken. Appeals and further appeals shall be in writing and shall state the reasons for the appeal.

#### Source

The provisions of this §65.63 adopted July 1, 1969.

#### Cross References

This section cited in 34 Pa. Code §63.23 (relating to unacceptable reasons).

## Subchapter D. Partial Unemployment and Deceased or Incompetent Claimants

Sec.

65.71. Compensation for partial unemployment.

65.72. Payments for deceased or incompetent claimants.

65.81. [Reserved].

65.82. [Reserved].

65.83. [Reserved].

65.84. [Reserved].

65.85. [Reserved].

### §65.71. Compensation for partial unemployment.

- (a) In determining the amount of compensation to which an eligible claimant is entitled for a week of partial unemployment which has caused the claimant a loss of earnings, due either to lack of work or unavailability for work, the Bureau shall estimate the amount of earnings which the claimant would have earned had he been actually employed during that week.
- (b) Compensation for the week shall be made in an amount equal to the weekly benefit rate of the claimant, less the sum of the estimated amount of his earnings and his actual earnings for the week, to the extent that the payments are in excess of partial benefit credit of the claimant.
- (c) In estimating the amount of earnings which a claimant would have received for the hours during which he was unavailable for work the Bureau shall prorate his actual hourly earnings for the week, unless some other method of estimation would be fairer and more reasonable.

#### Source

The provisions of this §65.71 adopted July 1, 1969.

### §65.72. Payments for deceased or incompetent claimants.

- (a) Payment of unemployment compensation benefits due a deceased claimant may be made without letters of administration on the estate of the decedent, in the following order:
  - (1) The surviving spouse.

- (2) The surviving child or children.
  - (3) The surviving parents.
  - (4) The eldest surviving brother or sister.
  - (5) A person who is not a relative, having an interest in the estate.
- (b) Payments of unemployment compensation benefits due a claimant who has been declared incompetent shall be made to his legal guardian.
- (c) Application for payment of benefits under the provisions of this section shall be made on a form and in a manner which shall be prescribed by the Department.

**Source**

The provisions of this §65.72 adopted July 1, 1969.

**§65.81. [Reserved].**

**Source**

The provisions of this §65.81 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (9321).

**§65.82. [Reserved].**

**Source**

The provisions of this §65.82 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (9321).

**§65.83. [Reserved].**

**Source**

The provisions of this §65.83 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (9321).

**§65.84. [Reserved].**

**Source**

The provisions of this §65.84 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (9322).

**§65.85. [Reserved].**

**Source**

The provisions of this §65.85 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (9322).

## Subchapter E. Eligibility in Conjunction with Other Payments

### Vacation Pay

- 65.91. Type of pay.
- 65.92. Determination of eligibility.
- 65.93. Reductions in unemployment compensation.
- 65.94. Identification of vacation periods.
- 65.95. Time of payment.
- 65.96. Calculation of vacation period.

### Retirement Pensions and Annuities

- 65.101. Purpose.
- 65.102. Application of the deduction.
- 65.103. [Reserved].
- 65.104. Initial payments.
- 65.105. Lump-sum retirement payments.
- 65.106. [Reserved].
- 65.107. [Reserved].
- 65.108. Rules of arbitration.

## VACATION PAY

### §65.91. Type of pay.

- (a) Whether a payment constitutes vacation pay for purposes of this subchapter shall depend on the purpose for which it is in fact paid or payable rather than the label which may have been given to the payment or to the fund from which it is paid. Unemployment compensation may not be used to finance vacations.
- (b) When a plant or department-wide period is granted for vacation and vacation pay is payable to an individual, he may not claim the period is a layoff for him due to lack of work and that his vacation pay should be assignable to some other period, so as to obtain unemployment compensation for one vacation with vacation pay from the employer for another.
- (c) The Superior Court has, in effect, held that where the employer of the claimant has designated or approved a vacation period for him, other than the general vacation shutdown, any vacation pay he receives shall first be allocated to the special vacation period the employer has designated or approved for him.
- (d) Apart from section 404 of the law (43 P. S. §804), claimant may not meet the employment tests of eligibility for unemployment compensation while he is actually taking a vacation from work.

#### Source

The provisions of this §65.91 adopted July 1, 1969.

### §65.92. Determination of eligibility.

In determining the eligibility of a claimant to whom vacation pay is paid or payable, it shall be considered immaterial whether the vacation pay is paid directly by an employer or through some other person or organization, so long as it originates from employer payments. The principles stated in this section shall also apply whether or not the vacation pay is legally required to be paid. It shall be the responsibility of any employer who provides for vacation pay for his employees to notify the Department in writing of this fact.

#### Source

The provisions of this §65.92 adopted July 1, 1969.

### §65.93. Reductions in unemployment compensation.

Unemployment compensation otherwise payable to an individual with respect to any week shall be reduced by the amount of vacation pay which is in excess of the claimant's partial benefit credit paid or payable to him with respect to all or any part of a vacation period included within that week. Thus, an employe is not rendered totally ineligible by the receipt of vacation pay, but only to the extent of the amount of vacation pay, which is in excess of his partial benefit credit, that he receives with respect to that period.

#### Source

The provisions of this §65.93 adopted July 1, 1969; amended March 7, 1975, effective March 8, 1975, 5 Pa.B. 441. Immediately preceding text appears at serial pages (9323) to (9324).

### §65.94. Identification of vacation periods.

For the purposes of this subchapter, the term "vacation period" means the following:

- (1) A period designated or approved by the claimant's employer as his vacation.
- (2) The period of any plant-wide or departmental closing for vacation except to the extent that the employer of the claimant has granted him a separate vacation period in substitution, in whole or in part, for the general shutdown.

#### Source

The provisions of this §65.94 adopted July 1, 1969.

#### Notes of Decisions

##### *Vacation Period*

Because there is a presumption of eligibility attached to involuntarily unemployed claimants, and to effectuate the legislative intent underlying the definition and application of "credit week" as a condition of eligibility, every week of vacation time, scheduled or unscheduled, earned during a base year must be allocated as a "credit week." *Poola v. Unemployment Compensation Board of Review*, 555 A.2d 97 (Pa. 1989).

A temporary employer shutdown was properly allocated as a vacation period; and, therefore, claimant was not entitled to collect unemployment despite claimant's contention that the employer's decision to shut down was merely a negotiating strategy. *Appeal v. Unemployment Compensation Board of Review*, 556 A.2d 973 (Pa. Cmwlth. 1989).

Although employer complied with terms of bargaining agreement permitting 2 week annual shutdown for vacation, the shutdown did not meet the definition of "vacation" since employes were not required to use available vacation leave during shutdown and, in fact, took approved vacation leaves later in year. The employes simply were not "scheduled" to work as opposed to being "excused" from working. *Iceland Products v. Unemployment Compensation Board of Review*, 492 A.2d 457 (Pa. Cmwlth. 1985).

### §65.95. Time of payment.

- (a) Vacation pay shall be deemed to have been paid with respect to the vacation period irrespective of the time it is actually received by the claimant if it is for the calendar year in which the vacation period occurs.
- (b) If, at the time of the vacation period, the claimant, due to insufficient service, has not yet established entitlement to vacation pay but will later accumulate the necessary amount of service, and if the claimant or his bargaining agent has not agreed to the particular time of the vacation period, the vacation pay may not be allocated to the vacation period.

### Source

The provisions of this §65.95 adopted July 1, 1969.

### §65.96. Calculation of vacation period.

The Department shall determine the number of days or weeks of the vacation period to which the vacation pay shall be applied by dividing the total amount of vacation pay by the regular full-time daily or weekly wage of the claimant. When the allocation of the payment is made on the basis of the number of days, the payment shall be apportioned to the customary working days in the calendar week.

### Source

The provisions of this §65.96 adopted July 1, 1969.

### Notes of Decisions

#### *Calculation*

Unemployment compensation Board was not able to reapportion yearly vacation pay between two periods since it had already made a finding of fact that excess earnings made in a particular month were allocable only to that month and as such the Board would be requesting an alternative factual finding unsupported by substantial evidence. *LaSota v. Unemployment Compensation Board of Review*, 547 A.2d 865 (Pa. Cmwlth. 1988).

## RETIREMENT PENSIONS AND ANNUITIES

### §65.101. Purpose.

- (a) In accordance with section 404(d)(2) of the law (43 P. S. §804(d)(2)), section 402(c) of the Internal Revenue Code of 1986 (26 U.S.C.A. §402(c)) and section 3304(a)(15) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C.A. §3304(a)(15)), the Department has promulgated regulations governing the deduction of certain pension payments from unemployment compensation benefits (UC benefits).
- (b) The Department has balanced the interests of employees and employers of this Commonwealth, consistent with the law. The Department seeks to maximize the Commonwealth's share of competitive employment in a global economy, thereby serving the needs of all Pennsylvanians by reducing the number of unemployed individuals and ensuring that UC benefits are available to those who need and are entitled to them.
- (c) For any week with respect to which a claimant is receiving certain pension payments, the Department will deduct from the weekly compensation otherwise payable to the claimant the prorated weekly amount of those pension payments which fulfill the prerequisites for deductibility specified in this chapter.

### Source

The provisions of this §65.101 adopted July 1, 1969; amended September 3, 1976, effective September 4, 1976, 6 Pa.B. 2107; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 21. Immediately preceding text appears at serial pages (209612) and (224421).

### §65.102. Application of the deduction.

- (a) Unless otherwise excluded from deductibility under this chapter, any pension payment received by a claimant with respect to a week for which the claimant receives unemployment compensation (UC) benefits shall be deducted from the weekly benefit amount otherwise payable to the claimant for that week.
- (b) Deductible pensions include a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment which is made under a plan maintained or contributed to by the claimant's base period or chargeable employer and is based on the claimant's previous work.

- (c) Similar periodic payments shall include all deductible pension payments made on other than a weekly basis which shall be prorated into a weekly amount before being deducted from the weekly benefit amount payable to the claimant.
- (d) The Department will deduct all Social Security retirement pensions which are based upon the claimant's previous work or self-employment, or both, including primary Social Security, old age and retirement disability benefits.
  - (1) The Department will not deduct Social Security payments which are not based on the claimant's previous work, such as Supplemental Security Income.
  - (2) The Department will deduct pensions paid under the Social Security Act (42 U.S.C.A. §§301 — 1397e) and the Railroad Retirement Act (45 U.S.C.A. §§231 — 231s) when the claimant's base year employer contributed to the pension plan. The pensions are deductible irrespective of whether the claimant's base year employment affected the eligibility for, or increased the amount of, the pension.
- (e) If the pension is entirely contributed to by the employer, 100% of the prorated weekly amount of the pension will be deducted from the weekly benefit amount payable to the claimant.
- (f) If the pension is contributed to by the individual, in any amount, 50% of the prorated weekly amount of the pension will be deducted from the weekly benefit amount payable to the claimant.
- (g) The weekly benefit amount payable to the claimant will not be reduced below zero by the prorated weekly amount of the pension.
- (h) For any week with respect to which the claimant is not receiving but is eligible for a pension, the Department will not deduct the prorated weekly amount of the pension from the weekly benefit amount payable to the claimant.
- (i) If, as a result of the claimant's ineligibility to receive a pension payment under a pension plan, the claimant receives a payment which represents only a return of the claimant's own contributions to the plan and does not include any contribution from a base period or chargeable employer, the payment is not a pension and will not be deducted from the weekly benefit amount payable to the claimant.
- (j) The Department will not deduct pension payments if the services performed by the individual during the base period or the remuneration received for those services from a base period or chargeable employer did not affect the individual's eligibility for, or increase the amount of, the pension, except for pensions paid under the Social Security Act and the Railroad Retirement Act.
- (k) The Department will not deduct periodic payments which are made under severance agreements, profit sharing arrangements or disability plans administered by a union, employer, workers' compensation carrier, insurance company or the Veterans Administration, unless the payments are based on retirement and fulfill all other prerequisites specified in this chapter.
- (l) The Department will not deduct lump sum pension payments which represent the transfer of "eligible rollover distributions" from a "qualified trust" to an "eligible retirement plan," as those terms are defined in section 402(c) of the Internal Revenue Code (IRC) (26 U.S.C.A. §402(c)).
  - (1) If all of the requirements of section 402(c) of the IRC are met, including the transfer of the payments into an "eligible retirement plan" within 60 days of receipt by the individual, those payments do not represent a payment to the individual for the purposes of retirement and are not received by the individual under section 404(d) of the law (43 P. S. §804(d)) and section 3304(a)(15) of the Federal Unemployment Tax Act (26 U.S.C.A. §3304(a)(15)) (FUTA).
  - (2) If a distribution, or any part thereof, does not meet the requirements of section 402(c) of the IRC, the Department will deduct the prorated weekly amount of that portion of the lump sum payment which is received by the claimant in accordance with §65.108 (relating to rules of attribution).

- (3) If a claimant does not roll over the entire lump sum into an eligible retirement plan, as set forth in paragraph (1), the Department will determine the amount to be deducted from the claimant's weekly benefit amount by dividing the amount of the lump sum payment that is received by the claimant by the total amount the claimant could have received had the claimant opted to take the entire lump sum available to the claimant. That quotient represents the deductible share of the lump sum pension amount received by the claimant. The claimant's unreduced monthly pension is the amount the claimant could have received each month had the claimant opted to take periodic payments in lieu of a lump sum. The Department will calculate the deductible portion of that unreduced monthly amount by multiplying it by the quotient representing the deductible share of the lump sum which is received by the claimant. Using the deductible amount of that monthly pension, the Department will compute the prorated weekly deductible amount in accordance with §65.108.
- (4) If a claimant presents documented proof to the Department that the claimant has rolled over a portion of a deductible lump sum payment into an eligible retirement plan within 60 days, so that all or some of that lump sum payment is not subject to Federal Income Tax, the Department will credit the claimant for any amount deducted from the claimant's UC benefits which is properly exempt from deduction because it is attributable to the transfer of the funds into an eligible retirement plan.

### **Source**

The provisions of this §65.102 adopted July 1, 1969; amended November 8, 1974, effective November 9, 1974, 4 Pa.B. 2358; amended September 3, 1976, effective September 4, 1976, 6 Pa.B. 2107; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 21. Immediately preceding text appears at serial page (224421).

### **Notes of Decisions**

#### *Excluded Contributions*

Employer's temporary disability salary continuation plan, fully paid and maintained by the employer, was specifically excluded as a deduction by this regulation. *York Cable Television, Inc. v. Unemployment Compensation Board of Review*, 654 A.2d 270 (Pa. Cmwlth. 1995).

### **Cross References**

This section cited in 34 Pa. Code §65.105 (relating to lump-sum retirement payments).

### **§65.103. [Reserved].**

### **Source**

The provisions of this §65.103 adopted July 1, 1969; amended September 3, 1976, effective September 4, 1976, 6 Pa.B. 2107; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 21. Immediately preceding text appears at serial pages (224421) to (224423).

### **Notes of Decisions**

#### *Benefit Eligibility*

Claimant was not entitled to benefits based upon assertion that claimant retired due to "impending layoff" when claimant did so after attaining maximum pension benefit amount. *Boyle v. Unemployment Compensation Board of Review*, 566 A.2d 1259 (Pa. Cmwlth. 1989).

#### *Normal Retirement Date*

This regulation makes no mention of a normal retirement date determination. Therefore, when the employer makes an offer of full pension rights to an employee to retire, and the employee accepts such an offer, a finding of when the "normal retirement date" occurs is not necessary to the application of the statute or regulation. *Dannerth v. Unemployment Compensation Board of Review*, 682 A.2d 55 (Pa. Cmwlth. 1996).

## *Offset of Benefits*

Exemption did not apply to unemployment compensation claimants because they were eligible to retire under their employer's retirement plan at the time the plant closed regardless of the special plant closing retirement plan; in order for the exemption to apply, the claimant must be permanently and involuntarily separated from employment prior to his retirement date. *Hornsberger v. Unemployment Compensation Board of Review*, 718 A.2d 359 (Pa. Cmwlth. 1998).

Unemployment compensation benefits are reduced by the amount of pension moneys paid by an employer to an employe who has elected to retire under an enhanced retirement program. *PECO Energy Co. v. Unemployment Compensation Board of Review*, 682 A.2d 36 (Pa. Cmwlth. 1996).

The Unemployment Compensation Board properly determined that the employe received a pension of \$494 per week and that this pension was entirely contributed to by the employer and because the employe's weekly pension exceeded the calculated weekly benefit rate of \$340, the unemployment benefits were reduced to zero. *Kelly v. Unemployment Compensation Board of Review*, 682 A.2d 29 (Pa. Cmwlth. 1996).

When the employe accepted the plan which permitted retirement at age 50, that age then became for the employe the age of retirement and the employe was therefore not separated from employment prior to the retirement date. Since the employe was not separated from employment, however voluntarily or involuntarily, "prior to retirement date," the regulatory exception to the rule of pension offset does not apply. The plain language of the excepting regulation requires that an employe be separated prior to retirement date, and, because the employe was not so separated, pension benefits could be deducted from the unemployment benefits. *Dannerth v. Unemployment Compensation Board of Review*, 682 A.2d 55 (Pa. Cmwlth. 1996).

Claimant reached the actual retirement date. The age at which claimant may have intended to retire, the offer of an enhancement plan that actually enabled claimant's earlier retirement without penalty, claimant's preference for delaying retirement in order to receive a larger pension, as well as other circumstances pertaining to "normal" retirement age, are not part of the relevant inquiry under this regulation. Therefore, claimant's pension could be deducted from any unemployment compensation which claimant would otherwise be entitled to receive. *Salerno, Jr. v. Unemployment Compensation Board of Review*, 674 A.2d 776 (Pa. Cmwlth. 1996).

Although Claimant neither intended to retire nor considered self to be retired, at the time of separation claimant was admittedly eligible to retire under employer's plan and was eligible to receive pension money without penalty. Contrary to claimant's assertions, claimant's eligibility to retire was determinative, and the Unemployment Compensation Board correctly applied 43 Pa.C.S. §804(d)(2) to determine claimant's weekly benefit rate by reducing the benefit amount from monthly retirement income even though claimant took retirement benefits in a lump sum payment. *Rathvon v. Unemployment Compensation Board of Review*, 663 A.2d 893 (Pa. Cmwlth. 1995).

This section was not inconsistent with Unemployment Compensation Law (43 P. S. §804(d)(2)) or Multiemployer Pension Plan Amendments Act of 1980 (26 U.S.C.A. §3304(a)(15)) even though it did not allow for the offset of retirement benefits against unemployment benefits in certain cases involving liquidation of pension benefits as a result of plant closings. *Teledyne Columbia-Summerill Carnegie v. Unemployment Compensation Board of Review*, 634 A.2d 665 (Pa. Cmwlth. 1993).

Unemployment compensation claimants who were separated from employment prior to retirement due to a plant closing were entitled to receive unemployment compensation without a deduction for pension benefits because this section was designed to protect a worker from the devastating effects of a plant closing. *Westinghouse Electric Corp. v. Unemployment Compensation Board of Review*, 549 A.2d 623 (Pa. Cmwlth. 1988).

Retirement benefits paid to an employe separated from employment due to a plant closing before employe reaches retirement age are not deducted from unemployment compensation. *Westinghouse v. Unemployment Compensation Board of Review*, 561 A.2d 80 (Pa. Cmwlth. 1989).

## *Separation*

Claimant was not permanently and involuntarily separated from employment prior to retirement date, as claimant



was eligible to retire at anytime. The fact that the claimant had no plans to retire at the time of separation was irrelevant. *Grace v. Unemployment Compensation Board of Review*, 631 A.2d 748 (Pa. Cmwlth. 1993).

### *Separation*

Claimants remained on lay-off status after the plant closed and continued to accrue service credit. Because of this ongoing relationship, claimants were not fully, and not necessarily permanently, “separated” from employment; thus, employer was entitled to offset the weekly amount of the pensions against any unemployment benefits to which claimants were entitled. *Attenberger v. Unemployment Compensation Board of Review*, 682 A.2d 68 (Pa. Cmwlth. 1996).

### **§65.104. Initial payments.**

- (a) When, following the retirement of an employe and, as part of a general pension plan, an initial payment is made in lieu of or in addition to the regular pension amount to which the employe is entitled, the initial payment will be considered a pension payment, and will be subject to this chapter.
- (b) Initial payments are independent of regular pension payments. To the extent that they meet the requirements for deductibility provided in this chapter, the Department will deduct them from compensation otherwise payable to a claimant even if the claimant’s regular pension payments are not deductible. The Department will not deduct initial payments if they do not meet the requirements for deductibility provided in this chapter, even if the claimant’s regular pension payments are deductible.
- (c) When the initial payment includes an amount paid for any reason other than pension, including unused vacation, only that amount which is attributable to the pension is deductible.
- (d) When the initial pension payment is received by a claimant in a lump-sum, the deduction of this initial pension amount will be calculated by dividing the initial pension amount by the number of weeks for which the pension plan specifies the initial payment is being made. The number of weeks attributable to unused vacation or other payments will not be used in determining the weekly pension amount to be deducted. The result of this calculation, if not a multiple of 1 dollar, will be computed to the next higher multiple of 1 dollar and will be considered the prorated weekly deductible amount of the initial payment and is the amount by which the weekly benefit rate will be reduced, but not below zero.

#### **Source**

The provisions of this §65.104 adopted July 1, 1969; amended March 12, 1976, effective March 13, 1976, 6 Pa.B. 450; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 21. Immediately preceding text appears at serial page (224423).

### **§65.105. Lump-sum retirement payments.**

- (a) When a claimant receives a lump-sum payment in lieu of a periodic pension payment, the prorated weekly pension amount which the employe could have received will be deducted in accordance with §65.108 (relating to rules of attribution).
- (b) When a claimant cannot receive periodic pension payments and must take a mandatory lump-sum payment, no pension deduction will be made.
- (c) When a claimant receives a deductible lump sum payment and transfers only a portion of that payment into an eligible retirement plan within 60 days of receipt, the remainder of the lump sum payment which is not transferred into an eligible retirement plan will be deducted, along with any other deductible pension payments made to the claimant under §65.102 (relating to application of the deduction) and §65.108.

#### **Source**

The provisions of this §65.105 adopted July 1, 1969; amended March 12, 1976, effective March 13, 1976, 6

Pa.B. 450; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 21. Immediately preceding text appears at serial page (209615).

### **§65.106. [Reserved].**

#### **Source**

The provisions of this §65.106 adopted July 1, 1969; reserved March 12, 1976, effective March 13, 1976, 6 Pa.B. 450. Immediately preceding text appears at serial pages (9326) to (9327).

### **§65.107. [Reserved].**

#### **Source**

The provisions of this §65.107 adopted July 1, 1969; reserved March 12, 1976, effective March 13, 1976, 6 Pa.B. 450. Immediately preceding text appears at serial page (9327).

### **§65.108. Rules of attribution.**

If a pension, retirement, annuity or other similar periodic payment deductible under section 404(d)(2) of the law (43 P. S. §804(d)(2)) is received on other than a weekly basis, the amount to be deducted will be prorated as follows: The claimant's monthly pension is the amount the claimant could have received each month had the claimant opted to take periodic payments in lieu of a lump sum. The Department will use the deductible amount of that monthly pension, convert it to a yearly amount, and divide by 52. If not a multiple of one dollar, the Department will determine the prorated weekly deductible amount of the pension by rounding to the next higher multiple of one dollar. The weekly benefit amount payable to the claimant will be reduced, but not below zero, by the prorated weekly deductible amount of the pension, in accordance with section 404(d)(2) of the law.

#### **Source**

The provisions of this §65.108 adopted January 2, 1998, effective January 3, 1998, 28 Pa.B. 21.

#### **Cross References**

This section cited in 34 Pa. Code §65.102 (relating to application of the deduction); and 34 Pa. Code §65.105 (relating to lump-sum retirement payments).

## **Subchapter F. Computations**

Sec.

### **Determination of Weekly Benefit Rate**

- 65.111. Benefit table.
- 65.112. Extending or contracting benefit table.
- 65.113. Computation of weekly wage.
- 65.114. High quarter rate determination.
- 65.115. Ascertainment of full-time weekly wage.
- 65.116. Application for benefits.
- 65.117. Appeals.

### **Weekly Net Earnings in Sideline Self-employment**

- 65.121. Computation of weekly net earnings.
- 65.122. Seasonal businesses.
- 65.123. Application of computed earnings.

## DETERMINATION OF WEEKLY BENEFIT RATE

### §65.111. Benefit table.

- (a) The table specified for the determination of rate and amount of benefits, as provided in Appendix A, shall be extended or contracted annually as prescribed in section 404(e)(2) of the law (43 P. S. §804(e)(2)) as follows:
- (1) The total number of persons in covered employment reported by employers to the Department for the 12-month period ending June 30 is divided by 12 and rounded to the nearest unit to produce the average monthly number of covered workers.
  - (2) The total amount of covered wages reported by employers to the Department — irrespective of the limit on the amount of wages subject to employer contributions — for the 12-month period ending June 30 is then divided by the monthly number of covered workers. The result is rounded to the nearest cent to produce the average annual wage.
  - (3) The average annual wage is then divided by 52, rounding to the nearest cent, to produce the average weekly wage.
  - (4) The average weekly wage is then multiplied by 2 and the product is divided by 3. The result becomes the maximum weekly benefit rate. If the result is not a whole dollar amount, it shall be rounded to the next higher multiple of \$1.
- (b) The amount of qualifying wages set forth in the benefit table for the highest quarterly wage, not the base year wages of the employe, shall be subject to section 401(a) of the law (43 P. S. §801(a)).
- (c) The Secretary shall annually submit the table specified for the determination of rate and amount of benefits to the Legislative Reference Bureau for suggested publication as a notice in the *Pennsylvania Bulletin* under 45 Pa.C.S. §725(a)(6) (relating to additional contents of the *Pennsylvania Bulletin*) and for suggested codification in the *Pennsylvania Code*, as Appendix A, under 45 Pa.C.S. §702(7) (relating to contents of the *Pennsylvania Code*).

### Authority

The provisions of this §65.111 issued under sections 201(a) and 404(e)(2) of the Unemployment Compensation Law (43 P. S. §§761(a) and 804(e)(2)).

### Source

The provisions of this §65.111 adopted December 17, 1971, effective December 18, 1971, 1 Pa.B. 2319; corrected December 24, 1971, effective January 1, 1972, 1 Pa.B. 2346; amended December 15, 1972, effective January 1, 1973, 2 Pa.B. 2327; amended December 15, 1973, effective January 1, 1974, 3 Pa.B. 2817; amended December 20, 1974, effective 30 days subsequent to final approval of act of December 5, 1974, 4 Pa.B. 2568; amended December 19, 1975, effective January 4, 1976, 5 Pa.B. 3272; amended December 17, 1976, effective January 2, 1977, 6 Pa.B. 3113; amended December 17, 1977, effective January 1, 1978, 7 Pa.B. 3784; amended December 30, 1978, effective January 1, 1979, 8 Pa.B. 3812; amended December 22, 1979, effective January 1, 1980, 9 Pa.B. 4168; amended December 25, 1981, effective January 1, 1982, 11 Pa.B. 4439; amended December 31, 1982, effective January 1, 1983, 13 Pa.B. 17; corrected January 21, 1983, effective January 1, 1983, 13 Pa.B. 522; amended December 30, 1983, effective January 1, 1984, 13 Pa.B. 4013; amended December 28, 1984, effective December 29, 1984, 14 Pa.B. 4688; amended December 28, 1984, effective January 1, 1985, 14 Pa.B. 4719; amended January 3, 1985, effective January 1, 1986, 15 Pa.B. 50; amended December 26, 1986, effective January 1, 1987, 16 Pa.B. 5004; amended December 25, 1987, effective January 1, 1988, 17 Pa.B. 5359; amended December 23, 1988, effective January 1, 1989, 18 Pa. B. 5675; amended December 22, 1989, effective January 1, 1990, 19 Pa.B. 5467. Immediately preceding text appears at serial page (134103) to (134108).

### Cross References

This section cited in 34 Pa. Code §65.112 (relating to extending or contracting benefit table).

### §65.112. Extending or contracting benefit table.

- (a) When it is necessary, under the provisions of section 404(e)(2) of the law (43 P. S. §804(e)(2)), to extend the table specified in §65.111 (relating to benefit table) and Appendix A for the determination of rates and amounts of benefits, it shall be done as follows:
- (1) The words “or more” shall be deleted from the last line under *Part A* of Appendix A, and an amount \$24 greater than the first entry in that line shall be substituted therefor.
  - (2) *Part A* shall be extended as much as necessary by adding \$25 to each amount of the preceding line. At the point where the entry in *Part B* equals 64 2/3% of the average weekly wage, the first entry in *Part A* shall consist of an amount \$25 greater than the smaller amount in the preceding line, and the words “or more” shall be added.
  - (3) *Part B* of Appendix A shall be extended in increments of \$1.00 until that point is reached where the amount is equal to 64 2/3% of the average weekly wage.
  - (4) *Part C* of Appendix A shall be extended in increments of \$40 to the point where, under *Part B* of Appendix A, the amount is equal to 64 2/3% of the average weekly wage.
  - (5) *Part D* of Appendix A shall be extended in increments of \$30 to the point where, under *Part B* of Appendix A, the amount is equal to 64 2/3% of the average weekly wage.
- (b) When it is necessary to contract the table specified for the determination of rates and amounts of benefits, it shall be done by deleting all lines following that in which the amount in *Part B* is 64 2/3 % of the average weekly wage and substituting the words “or more” for the higher amount under *Part A* in that line.
- (c) The percent stated in subsections (a) and (b) for establishing the maximum weekly benefit rate shall be 64 2/3 % for calendar year 1975, and 66 2/3% for calendar year 1976 and for subsequent calendar years.

#### Source

The provisions of this §65.112 adopted December 3, 1971, effective December 4, 1971, 1 Pa.B. 2231; amended December 20, 1974, effective 30 days subsequent to final approval of the act of December 5, 1974, 4 Pa.B. 2568. Immediately preceding text appears at serial pages (13491) to (13492).

### §65.113. Computation of weekly wage.

- (a) It is an objective of the Pennsylvania Unemployment Compensation Program that an unemployed, eligible claimant shall be compensated for at least 50% of his weekly wage loss, subject to the maximum weekly benefit rate fixed by law.
- (b) Prior to 1955, computation of the weekly benefit rate of the claimant was based exclusively upon his weekly earnings during that calendar quarter of his base year in which he has the greatest amount of wages in covered employment.
- (c) When a claimant has experienced irregular or short term employment in his base year, the high quarter formula of subsection (b) has occasionally failed to compensate the claimant at the rate of 50% of his weekly wage. Section 404(a) of the law (43 P. S. §804(a)) remedies this condition effective with benefit years commencing on or after May 1, 1955, to provide an alternate formula for computing a claimant's compensation rate, that is 50% of his full-time weekly wage, whichever is greater.

#### Source

The provisions of this §65.113 adopted July 1, 1969.

## Notes of Decisions

### *Weekly Wage*

Claimants employed as intermittent intake interviewers by the Office of Employment Security were entitled to receive benefits at 50% of their weekly wage, since, when working, they never worked less hours per week than a full-time work week. *Brennan v. Unemployment Compensation Board of Review*, 484 A.2d 430 (Pa. Cmwlth. 1984).

## Cross References

This section cited in 34 Pa. Code §65.122 (relating to seasonal businesses).

### **§65.114. High quarter rate determination.**

The high quarter formula, in most instances, yields a weekly benefit rate which is equal to or in excess of 50% of the full-time weekly wage of the claimant. Since the Department is in possession of the wage records of the claimant required for this computation, and since additional information not of record is required for determining his full-time weekly wage, the Department, for the purpose of practicable administration and in order to avoid delay in the payment of benefits, shall apply the following rules in determining the claimant's weekly benefit rate under the provisions of this subchapter:

- (1) A weekly benefit rate, computed on the basis of the claimant's high quarter wages in accordance with Part A and Part B of Appendix A, shall be the rate on which his compensation rights shall be initially determined for any benefit year, unless it is found on the basis of employment experience in the claimant's base year that 50% of his full-time weekly wage exceeds his weekly benefit rate as established by the high quarter formula, in which event his weekly benefit rate shall be 50% of his full-time weekly wage.
- (2) An employe who is employed in an occupation in which the remuneration is based solely on commission with no fixed or guaranteed minimum, or an employe hired as a contingent or extra employe, or one hired for less than the full-time work week of the establishment, shall be deemed not to have a full-time weekly wage on the basis of that employment.
- (3) The application of these rules shall in no way prejudice the right of a claimant whose base-year wages are insufficient to qualify him for compensation at the rate thus determined to receive compensation at a lower rate in accordance with section 404(a)(3) and (c) of the law (43 P. S. §804(a)(3) and (c)).

## Notes of Decisions

### *Invalid*

This section was held invalid because it excludes from the benefits of the optional calculation method allowed by 43 P. S. §804(a)(1) a category of employes which was intended to be included, and because it is inconsistent with the broad humanitarian purpose and the language of the Unemployment Compensation Law. *Brennan v. Unemployment Compensation Board of Review*, 484 A.2d 430 (Pa. Cmwlth. 1984).

### *Weekly Wage*

Working 30 out of a possible 35-hour work week does not qualify an applicant as a full-time weekly wage earner and benefits must be computed by the table located at 43 P. S. §804(e)(1) as required by 43 P. S. §804(a)(1). *Figliomeni v. Unemployment Compensation Board of Review*, 382 A.2d 1311 (Pa. Cmwlth. 1978).

### **§65.115. Ascertainment of full-time weekly wage.**

The full-time weekly wage of an employe shall be that wage which an employe would receive if he were employed for a full-time week of not less than 5 full work days, and shall be ascertained as follows:

- (1) In all cases, the wages paid by the employer from whom the claimant earned the greatest amount of wages in his base year, as shown on the Notice of Financial Determination (Form UC-44F), shall be used as the basis for ascertaining the full-time weekly wage. If the claimant was paid at more than one wage rate based upon a unit of time by the employer, the wage rate at which he earned the greatest amount of wages in his base year shall be used.
- (2) In all cases, the full-time weekly wage shall be computed to the nearest dollar.
- (3) If the wages are fixed by the week, the amount so fixed shall be the full-time weekly wage.
- (4) If the wages are fixed by the month, the full-time weekly wage shall be the monthly wage so fixed, multiplied by 12 and divided by 52.
- (5) If the wages are fixed by the year, the full-time weekly wage shall be the yearly wage so fixed, divided by 52.
- (6) If the wages are fixed by the day, the full-time weekly wage shall be the daily wage rate multiplied by not less than five.
- (7) If the wages are fixed by the hour, the full-time weekly wage shall be the hourly wage rate multiplied by the regularly scheduled number of hours in a full-time work day, and the result multiplied by not less than five.
- (8) If the wages are fixed on a piece rate or tonnage basis, the full-time weekly wage shall be determined as follows:
- (9) Wages earned in the calendar quarter in which the claimant's earnings were the greatest in his base year shall be divided by the actual number of hours worked for the wages to establish the average hourly rate. The average hourly rate thus obtained shall be multiplied by the regularly scheduled number of hours in a full-time work day and the result multiplied by not less than five.
- (10) If the wages are fixed on a combination of an hourly wage rate plus a piece work or tonnage rate, the full-time weekly wage shall be determined by the piece rate method, as explained in this section.

#### **Source**

The provisions of this §65.115 adopted July 1, 1969.

#### **§65.116. Application for benefits.**

- (a) If, at the time the claimant files his initial application for benefits, a full-time weekly wage can be established, subject to verification, it shall be indicated on the initial application of the claimant. The weekly benefit rate for these applications shall be computed on the basis of the highest quarterly wages in accordance with Part A and Part B of Appendix A, or 50% of the full-time weekly wage, whichever is greater.
- (b) If, at the time the claimant files his initial application for benefits, a full-time weekly wage cannot be established, the weekly benefit rate shall be computed solely on the basis of the high quarter formula. Upon receipt of the Notice of Financial Determination (Form UC-44F), the local office shall determine if there is a substantial basis for a weekly benefit rate determination based on full-time weekly wage. This determination may be made at the time of the waiting week or at the time of the benefit rights interview. For these cases the local office shall initiate whatever actions are required to obtain necessary wage information upon which to establish the full-time weekly wage.

#### **Source**

The provisions of this §65.116 adopted July 1, 1969.

## §65.117. Appeals.

- (a) For the purpose of appeals filed by employers the date of decision with respect to determination of the weekly benefit rate of a claimant shall be the date on which the Notice of Financial Determination (Form UC-44F) indicating the weekly benefit rate was mailed to the employer.
- (b) For the purpose of appeals filed by claimants the date of the decision shall be the date on which the Notice of Financial Determination (Form UC-44F) indicating the weekly benefit rate was personally delivered to him.
- (c) In order to avoid multiplicity of appeals, whenever, pending an appeal, an issue arises as to the weekly benefit rate the issue shall be determined by the Department and submitted to the appropriate appellate tribunal for inclusion in the pending appellate proceedings and decision thereon.

### Source

The provisions of this §65.117 adopted July 1, 1969.

## WEEKLY NET EARNINGS IN SIDELINE SELF-EMPLOYMENT

### §65.121. Computation of weekly net earnings.

- (a) Since an accurate determination of weekly net earnings for a particular week or month will usually be impossible because of the time lapse between the performance of services and the receipt of resulting income. Weekly net earnings for a current calendar year shall be based on net earnings in a previous calendar year or on anticipated earnings in the current calendar year, if operations were not conducted in a previous calendar year, in accordance with the following:
  - (1) For a claimant engaged in farming, “gross income” from sales and services shall be reduced by subtraction of expenses for labor, feed, seeds and plants, fertilizer and lime.
  - (2) For a claimant engaged in a business other than farming, “gross income” from sales and services shall be reduced by subtraction of the cost, if any, of goods sold. Cost of goods sold shall include the total cost of merchandise, cost of labor and cost of material and supplies.
  - (3) The remainder shall be divided by the number of weeks during which the farm or business operated or will operate during a year. The quotient shall represent the weekly net earnings to be used for the purpose of computing benefits payable.
- (b) Weekly net earnings computed in accordance with subsection (a) applies throughout the benefit year for as long as the business operates in the benefit year.

### Notes of Decisions

#### *Net Earnings*

The provisions of 34 Pa. Code §65.121 provide only for the deduction of labor and material costs from gross income in computing the net earnings of a single sideline business; nothing suggests that losses from failing sideline ventures may be deducted from profits of successful sideline businesses in computing weekly income from sideline activities. *Frederick v. Unemployment Compensation Board of Review*, 423 A.2d 801 (Pa. Cmwlth. 1980).

### Source

The provisions of this §65.121 adopted July 1, 1969.

### **§65.122. Seasonal businesses.**

When seasonal businesses are involved, weekly net earnings computed in accordance with §65.113 (relating to computation of weekly wage) apply to any weeks in the benefit year during which the business normally operates.

#### **Source**

The provisions of this §65.122 adopted July 1, 1969.

### **§65.123. Application of computed earnings.**

Application of computed weekly net earnings apply whether or not a benefit year overlaps a calendar year.

#### **Source**

The provisions of this §65.123 adopted July 1, 1969.

## **Subchapter G. Interstate Claims**

### **Sec.**

#### **Compensation to Interstate Claimants**

- 65.131. Registration for work.
- 65.132. Benefit rights of interstate claimants.
- 65.133. Unavailable benefit credits.
- 65.134. Claims for benefits.
- 65.135. Filing of claims.
- 65.136. Determination of claims.
- 65.137. Appellate procedure.
- 65.138. Claims taken in Canada.
- 65.141. [Reserved].
- 65.142. [Reserved].

### **COMPENSATION TO INTERSTATE CLAIMANTS**

#### **§65.131. Registration for work.**

- (a) Each interstate claimant shall be registered for work through a public employment office in the agent state, when and as required by the law, regulations and procedures of the agent state. The registration shall be accepted as meeting the registration requirements of the liable state.
- (b) Each agent state shall report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state.

#### **Source**

The provisions of this §65.131 adopted July 1, 1969.

#### **§65.132. Benefit rights of interstate claimants.**

- (a) If a claimant files a claim against a state, and it is determined by the state that the claimant has available benefit credits in that state, then claims shall be filed only against that state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.
- (b) Benefit rights of interstate claimants established by this subchapter apply only with respect to new claims (notices of unemployment) filed on or after July 5, 1953.



### **Source**

The provisions of this §65.132 adopted July 1, 1969.

### **§65.133. Unavailable benefit credits.**

- (a) For the purposes of this subchapter, benefit credit shall be deemed to be unavailable whenever benefits have been exhausted, terminated or postponed either for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.
- (b) Benefit rights of interstate claimants established by this subchapter apply only to new claims, that is, notices of unemployment filed on or after July 5, 1953.

### **Source**

The provisions of this §65.133 adopted July 1, 1969.

### **§65.134. Claims for benefits.**

Claims for benefits or waiting-period credit shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

### **Source**

The provisions of this §65.134 adopted July 1, 1969.

### **§65.135. Filing of claims.**

- (a) Claims shall be filed in accordance with agent-state regulations for intrastate claims in local employment offices, or at an itinerant point.
- (b) With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period, late. If a claimant files more than one reporting period late, an initial claim shall be used to begin a claim series and no continued claim for a past period shall be accepted.
- (c) With respect to weeks of unemployment during which an individual is attached to his regular employer, the liable state shall accept any claim which is filed within the time limit applicable to the claims under the law of the agent state.

### **Source**

The provisions of this §65.135 adopted July 1, 1969.

### **§65.136. Determination of claims.**

- (a) The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.
- (b) The responsibility and authority of the agent state in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state may not refuse to take an interstate claim.

### Source

The provisions of this §65.136 adopted July 1, 1969.

### §65.137. Appellate procedure.

- (a) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.
- (b) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state.

### Source

The provisions of this §65.137 adopted July 1, 1969.

### §65.138. Claims taken in Canada.

This subchapter applies to claims taken in and for Canada.

### Source

The provisions of this §65.138 adopted July 1, 1969.

### §65.141. [Reserved].

### Source

The provisions of this §65.141 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (14339).

### §65.142. [Reserved].

### Source

The provisions of this §65.142 adopted July 1, 1969; reserved August 23, 1974, effective August 24, 1974, 4 Pa.B. 1779. Immediately preceding text appears at serial page (14339).

## Subchapter H. Allowances for Dependents

### Sec.

- 65.151. Definitions.
- 65.152. Purpose.
- 65.153. Amount to remain fixed.
- 65.154. Payments.
- 65.155. Claimants without a dependent spouse.
- 65.156. Reserve accounts of employers.
- 65.157. Extended benefits.
- 65.161. Reasonable assurance.

### §65.151. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Dependent child*— An individual's unmarried child, stepchild, legally adopted child or illegitimate child, who at the beginning of the individual's current benefit year, was wholly or chiefly supported by the individual and was 17 years of age or younger, or if 18 years of age or older, because of physical or mental infirmity was unable to engage in a gainful occupation.

*Dependent spouse* — An individual's lawful husband or wife who is living in the same household and who is being wholly or chiefly supported by the individual at the beginning of such individual's benefit year.

*Wholly or chiefly supported*— The dependent is receiving more than 1/2 of the cost of his support from the individual.

#### **Source**

The provisions of this §65.151 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended December 7, 1973, effective December 8, 1973, 3 Pa.B. 2790; amended November 5, 1976, effective November 6, 1976, 6 Pa.B. 2817. Immediately preceding text appears at serial page (17314).

#### **§65.152. Purpose.**

This subchapter is intended to effectuate those provisions of the law which deal with the payment of an allowance for dependents to eligible claimants for unemployment compensation.

#### **Source**

The provisions of this §65.152 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017.

#### **§65.153. Amount to remain fixed.**

The amount of allowance for dependents as computed at the time of the application for benefits shall remain fixed for the duration of the claimant's benefit year, except in instances of error in the original determination.

#### **Source**

The provisions of this §65.153 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017.

#### **§65.154. Payments.**

Dependent's allowance shall be paid for valid claim weeks whether full or partial weekly benefit amount is payable. The number of payments shall be limited to 30 under section 404(e)(3) of the law (43 P. S. §804(e)(3)), and the number of payments shall be limited to nine under section 405A of the Law (43 P. S. §815).

#### **Source**

The provisions of this §65.154 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017.

#### **§65.155. Claimants without a dependent spouse.**

In the event a claimant does not have a dependent spouse, a \$5 allowance shall be payable for the first dependent child, plus \$3 for one other dependent child, if any.

#### **Source**

The provisions of this §65.155 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017.

#### **§65.156. Reserve accounts of employers.**

(a) Allowances for dependents are not chargeable to the reserve accounts of employers.

(b) If a reserve account for an employer subject to this act is not authorized or not required to be maintained under

criteria established in the law, allowances for dependents shall be subject to a reimbursement as follows:

- (1) The Unemployment Compensation Fund shall be reimbursed for dependent's allowance paid as a result of State employment under section 1001 of the law (43 P. S. §891). Reimbursement will be made in accordance with section 1003 of the law (43 P. S. §893).
- (2) The Unemployment Compensation Fund will be reimbursed for dependent's allowance paid as a result of service in the employ of a reimbursable nonprofit organization as defined under section 1101 of the law (43 P. S. §901). Charges will be made to the employer's account in accordance with section 1108 of the law (43 P. S. §908). Reimbursement will be made in accordance with section 1106 of the law (43 P. S. §906).
- (3) The Unemployment Compensation Fund will be reimbursed based upon the percent of charge for dependent's allowance paid on a combined wage claim. The transferring state's reimbursement shall be in accordance with arrangements entered into under section 312 of the law (43 P. S. §792).

#### **Source**

The provisions of this §65.156 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 29, 1974, effective March 30, 1974, 4 Pa.B. 581. Immediately preceding text appears at serial pages (15241) to (15242).

#### **§65.157. Extended benefits.**

The terms and conditions of the law which apply to claims for and payment of regular compensation apply to claims for and payment of extended compensation under Article IV-A of the law (43 P. S. §§811 — 818), except that a claimant otherwise eligible for extended benefits under Article IV-A of the law is not subject to the terms and conditions of the following provisions:

- (1) To have worked and earned requalifying wages between benefit years as required by section 4(w)(2) of the law (43 P. S. §753(w)(2)).
- (2) To meet the monetary requirements specified by section 401(a) of the law (43 P. S. §801(a)).

#### **Source**

The provisions of this §65.157 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 2, 1973, effective March 3, 1973, 3 Pa.B. 484; amended September 17, 1976, effective September 18, 1976, 6 Pa.B. 2279. Immediately preceding text appears at serial page (15242).

#### **§65.161. Reasonable assurance.**

- (a) For purposes of section 402.1 of the law (43 P.S. § 802.1), a contract or reasonable assurance that an individual will perform services in the second academic period exists only if both of the following conditions are met:
  - (1) The educational institution or educational service agency provides a bona fide offer of employment for the second academic period to the individual.
  - (2) The economic terms and conditions of the employment offered to the individual for the second academic period are not substantially less than the terms and conditions of the individual's employment in the first academic period.
- (b) For the purposes of subsection (a), an offer of employment is not bona fide if both of the following conditions exist:
  - (1) The educational institution or educational service agency does not control the circumstances under which the individual would be employed.
  - (2) The educational institution or educational service agency cannot provide evidence that the individual or similarly situated individuals normally perform services in the second academic period.
- (c) For the purposes of subsection (a), the economic terms and conditions of employment include wages, benefits and hours of work.

**APPENDIX A**

**RATE AND AMOUNT OF UC BENEFITS**

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E 16WKS	PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E 16WKS
\$ 800- 812	35	1320	910	560	\$ 2138-2162	88	3440	2288	1408
813- 837	36	1360	936	576	2163-2187	89	3480	2314	1424
838- 862	37	1400	962	592	2188-2212	90	3520	2340	1440
863- 887	38	1440	988	608	2213-2237	91	3560	2366	1456
888- 912	39	1480	1014	624	2238-2262	92	3600	2392	1472
913- 937	40	1520	1040	640	2263-2287	93	3640	2418	1488
938- 962	41	1560	1066	656	2288-2312	94	3680	2444	1504
963- 987	42	1600	1092	672	2313-2337	95	3720	2470	1520
988-1012	43	1640	1118	688	2338-2362	96	3760	2496	1536
1013-1037	44	1680	1144	704	2363-2387	97	3800	2522	1552
1038-1062	45	1720	1170	720	2388-2412	98	3840	2548	1568
1063-1087	46	1760	1196	736	2413-2437	99	3880	2574	1584
1088-1112	47	1800	1222	752	2438-2462	100	3920	2600	1600
1113-1162	48	1840	1248	768	2463-2487	101	3960	2626	1616
1163-1187	49	1880	1274	784	2488-2512	102	4000	2652	1632
1188-1212	50	1920	1300	800	2513-2537	103	4040	2678	1648
1213-1237	51	1960	1326	816	2538-2562	104	4080	2704	1664
1238-1262	52	2000	1352	832	2563-2587	105	4120	2730	1680
1263-1287	53	2040	1378	848	2588-2612	106	4160	2756	1696
1288-1312	54	2080	1404	864	2613-2637	107	4200	2782	1712
1313-1337	55	2120	1430	880	2638-2662	108	4240	2808	1728
1338-1362	56	2160	1456	896	2663-2687	109	4280	2834	1744
1363-1387	57	2200	1482	912	2688-2712	110	4320	2860	1760
1388-1412	58	2240	1508	928	2713-2737	111	4360	2886	1776
1413-1437	59	2280	1534	944	2738-2762	112	4400	2912	1792
1438-1462	60	2320	1560	960	2763-2787	113	4440	2938	1808
1463-1487	61	2360	1586	976	2788-2812	114	4480	2964	1824
1488-1512	62	2400	1612	992	2813-2837	115	4520	2990	1840
1513-1537	63	2440	1638	1008	2838-2862	116	4560	3016	1856
1538-1562	64	2480	1664	1024	2863-2887	117	4600	3042	1872
1563-1587	65	2520	1690	1040	2888-2912	118	4640	3068	1888
1588-1612	66	2560	1716	1056	2913-2937	119	4680	3094	1904
1613-1637	67	2600	1742	1072	2938-2962	120	4720	3120	1920
1638-1662	68	2640	1768	1088	2963-2987	121	4760	3146	1936
1663-1687	69	2680	1794	1104	2988-3012	122	4800	3172	1952
1688-1712	70	2720	1820	1120	3013-3037	123	4840	3198	1968
1713-1737	71	2760	1846	1136	3038-3062	124	4880	3224	1984
1738-1762	72	2800	1872	1152	3063-3087	125	4920	3250	2000
1763-1787	73	2840	1898	1168	3088-3112	126	4960	3276	2016
1788-1812	74	2880	1924	1184	3113-3137	127	5000	3302	2032
1813-1837	75	2920	1950	1200	3138-3162	128	5040	3328	2048
1838-1862	76	2960	1976	1216	3163-3187	129	5080	3354	2064
1863-1887	77	3000	2002	1232	3188-3212	130	5120	3380	2080
1888-1912	78	3040	2028	1248	3213-3237	131	5160	3406	2096
1913-1937	79	3080	2054	1264	3238-3262	132	5200	3432	2112
1938-1962	80	3120	2080	1280	3263-3287	133	5240	3458	2128
1963-1987	81	3160	2106	1296	3288-3312	134	5280	3484	2144
1988-2012	82	3200	2132	1312	3313-3337	135	5320	3510	2160
2013-2037	83	3240	2158	1328	3338-3362	136	5360	3536	2176
2038-2062	84	3280	2184	1344	3363-3387	137	5400	3562	2192
2063-2087	85	3320	2210	1360					
2088-2112	86	3360	2236	1376					

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E AMOUNT OF COMPENSATION 16WKS
\$ 3388-3412	138	5440	3588	2208
3413-3437	139	5480	3614	2224
3438-3462	140	5520	3640	2240
3463-3487	141	5560	3666	2256
3488-3512	142	5600	3692	2272
3513-3537	143	5640	3718	2288
3538-3562	144	5680	3744	2304
3563-3587	145	5720	3770	2320
3588-3612	146	5760	3796	2336
3613-3637	147	5800	3822	2352
3638-3662	148	5840	3848	2368
3663-3687	149	5880	3874	2384
3688-3712	150	5920	3900	2400
3713-3737	151	5960	3926	2416
3738-3762	152	6000	3952	2432
3763-3787	153	6040	3978	2448
3788-3812	154	6080	4004	2464
3813-3837	155	6120	4030	2480
3838-3862	156	6160	4056	2496
3863-3887	157	6200	4082	2512
3888-3912	158	6240	4108	2528
3913-3937	159	6280	4134	2544
3938-3962	160	6320	4160	2560
3963-3987	161	6360	4186	2576
3988-4012	162	6400	4212	2592
4013-4037	163	6440	4238	2608
4038-4062	164	6480	4264	2624
4063-4087	165	6520	4290	2640
4088-4112	166	6560	4316	2656
4113-4137	167	6600	4342	2672
4138-4162	168	6640	4368	2688
4163-4187	169	6680	4394	2704
4188-4212	170	6720	4420	2720
4213-4237	171	6760	4446	2736
4238-4262	172	6800	4472	2752
4263-4287	173	6840	4498	2768
4288-4312	174	6880	4524	2784
4313-4337	175	6920	4550	2800
4338-4362	176	6960	4576	2816
4363-4387	177	7000	4602	2832
4388-4412	178	7040	4628	2848
4413-4437	179	7080	4654	2864
4438-4462	180	7120	4680	2880
4463-4487	181	7160	4706	2896
4488-4512	182	7200	4732	2912
4513-4537	183	7240	4758	2928
4538-4562	184	7280	4784	2944
4563-4587	185	7320	4810	2960
4588-4612	186	7360	4836	2976
4613-4637	187	7400	4862	2992
4638-4662	188	7440	4888	3008
4663-4687	189	7480	4914	3024
4688-4712	190	7520	4940	3040
4713-4737	191	7560	4966	3056

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E AMOUNT OF COMPENSATION 16WKS
\$ 4763-4787	193	7640	5018	3088
4788-4812	194	7680	5044	3104
4813-4837	195	7720	5070	3120
4838-4862	196	7760	5096	3136
4863-4887	197	7800	5122	3152
4888-4912	198	7840	5148	3168
4913-4937	199	7880	5174	3184
4938-4962	200	7920	5200	3200
4963-4987	201	7960	5226	3216
4988-5012	202	8000	5252	3232
5013-5037	203	8040	5278	3248
5038-5062	204	8080	5304	3264
5063-5087	205	8120	5330	3280
5088-5112	206	8160	5356	3296
5113-5137	207	8200	5382	3312
5138-5162	208	8240	5408	3328
5163-5187	209	8280	5434	3344
5188-5212	210	8320	5460	3360
5213-5237	211	8360	5486	3376
5238-5262	212	8400	5512	3392
5263-5287	213	8440	5538	3408
5288-5312	214	8480	5564	3424
5313-5337	215	8520	5590	3440
5338-5362	216	8560	5616	3456
5363-5387	217	8600	5642	3472
5388-5412	218	8640	5668	3488
5413-5437	219	8680	5694	3504
5438-5462	220	8720	5720	3520
5463-5487	221	8760	5746	3536
5488-5512	222	8800	5772	3552
5513-5537	223	8840	5798	3568
5538-5562	224	8880	5824	3584
5563-5587	225	8920	5850	3600
5588-5612	226	8960	5876	3616
5613-5637	227	9000	5902	3632
5638-5662	228	9040	5928	3648
5663-5687	229	9080	5954	3664
5688-5712	230	9120	5980	3680
5713-5737	231	9160	6006	3696
5738-5762	232	9200	6032	3712
5763-5787	233	9240	6058	3728
5788-5812	234	9280	6084	3744
5813-5837	235	9320	6110	3760
5838-5862	236	9360	6136	3776
5863-5887	237	9400	6162	3792
5888-5912	238	9440	6188	3808
5913-5937	239	9480	6214	3824
5938-5962	240	9520	6240	3840
5963-5987	241	9560	6266	3856
5988-6012	242	9600	6292	3872
6013-6037	243	9640	6318	3888
6038-6062	244	9680	6344	3904
6063-6087	245	9720	6370	3920
6088-6112	246	9760	6396	3936

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E AMOUNT OF COMPENSATION 16WKS
\$ 6138-6162	248	9840	6448	3968
6163-6187	249	9880	6474	3984
6188-6212	250	9920	6500	4000
6213-6237	251	9960	6526	4016
6238-6262	252	10000	6552	4032
6263-6287	253	10040	6578	4048
6288-6312	254	10080	6604	4064
6313-6337	255	10120	6630	4080
6338-6362	256	10180	6656	4096
6363-6387	257	10200	6682	4112
6388-6412	258	10240	6708	4128
6413-6437	259	10280	6734	4144
6438-6462	260	10320	6760	4160
6463-6487	261	10360	6786	4176
6488-6512	262	10400	6812	4192
6513-6537	263	10440	6838	4208
6538-6562	264	10480	6864	4224
6563-6587	265	10520	6890	4240
6588-6612	266	10560	6916	4256
6613-6637	267	10600	6942	4272
6638-6662	268	10640	6968	4288
6663-6687	269	10680	6994	4304
6688-6712	270	10720	7020	4320
6713-6737	271	10760	7046	4336
6738-6762	272	10800	7072	4352
6763-6787	273	10840	7098	4368
6788-6812	274	10880	7124	4384
6813-6837	275	10920	7150	4400
6838-6862	276	10960	7176	4416
6863-6887	277	11000	7202	4432
6888-6912	278	11040	7228	4448
6913-6937	279	11080	7254	4464
6938-6962	280	11120	7280	4480
6963-6987	281	11160	7306	4496
6988-7012	282	11200	7332	4512
7013-7037	283	11240	7358	4528
7038-7062	284	11280	7384	4544
7063-7087	285	11320	7410	4560
7088-7112	286	11360	7436	4576
7113-7137	287	11400	7462	4592
7138-7162	288	11440	7488	4608
7163-7187	289	11480	7514	4624
7188-7212	290	11520	7540	4640
7213-7237	291	11560	7566	4656
7238-7262	292	11600	7592	4672
7263-7287	293	11640	7618	4688
7288-7312	294	11680	7644	4704
7313-7337	295	11720	7670	4720
7338-7362	296	11760	7696	4736
7363-7387	297	11800	7722	4752
7388-7412	298	11840	7748	4768
7413-7437	299	11880	7774	4784
7438-7462	300	11920	7800	4800
7463-7487	301	11960	7826	4816

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E AMOUNT OF COMPENSATION 16WKS
\$ 7513-7537	303	12040	7878	4848
7538-7562	304	12080	7904	4864
7563-7587	305	12120	7930	4880
7588-7612	306	12160	7956	4896
7613-7637	307	12200	7982	4912
7638-7662	308	12240	8008	4928
7663-7687	309	12280	8034	4944
7688-7712	310	12320	8060	4960
7713-7737	311	12360	8086	4976
7738-7762	312	12400	8112	4992
7763-7787	313	12440	8138	5008
7788-7812	314	12480	8164	5024
7813-7837	315	12520	8190	5040
7838-7862	316	12560	8216	5056
7863-7887	317	12600	8242	5072
7888-7912	318	12640	8268	5088
7913-7937	319	12680	8294	5104
7938-7962	320	12720	8320	5120
7963-7987	321	12760	8346	5136
7988-8012	322	12800	8372	5152
8013-8037	323	12840	8398	5168
8038-8062	324	12880	8424	5184
8063-8087	325	12920	8450	5200
8088-8112	326	12960	8476	5216
8113-8137	327	13000	8502	5232
8138-8162	328	13040	8528	5248
8163-8187	329	13080	8554	5264
8188-8212	330	13120	8580	5280
8213-8237	331	13160	8606	5296
8238-8262	332	13200	8632	5312
8263-8287	333	13240	8658	5328
8288-8312	334	13280	8684	5344
8313-8337	335	13320	8710	5360
8338-8362	336	13360	8736	5376
8363-8387	337	13400	8762	5392
8388-8412	338	13440	8788	5408
8413-8437	339	13480	8814	5424
8438-8462	340	13520	8840	5440
8463-8487	341	13560	8866	5456
8488-8512	342	13600	8892	5472
8513-8537	343	13640	8918	5488
8538-8562	344	13680	8944	5504
8563-8587	345	13720	8970	5520
8588-8612	346	13760	8996	5536
8613-8637	347	13800	9022	5552
8638-8662	348	13840	9048	5568
8663-8687	349	13880	9074	5584
8688-8712	350	13920	9100	5600
8713-8737	351	13960	9126	5616
8738-8762	352	14000	9152	5632
8763-8787	353	14040	9178	5648
8788-8812	354	14080	9204	5664
8813-8837	355	14120	9230	5680
8838-8862	356	14160	9256	5696

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E AMOUNT OF COMPENSATION 16WKS
\$ 8888-8912	358	14240	9308	5728
8913-8937	359	14280	9334	5744
8938-8962	360	14320	9360	5760
8963-8987	361	14360	9386	5776
8988-9012	362	14400	9412	5792
9013-9037	363	14440	9438	5808
9038-9062	364	14480	9464	5824
9063-9087	365	14520	9490	5840
9088-9112	366	14560	9516	5856
9113-9137	367	14600	9542	5872
9138-9162	368	14640	9568	5888
9163-9187	369	14680	9594	5904
9188-9212	370	14720	9620	5920
9213-9237	371	14760	9646	5936
9238-9262	372	14800	9672	5952
9263-9287	373	14840	9698	5968
9288-9312	374	14880	9724	5984
9313-9337	375	14920	9750	6000
9338-9362	376	14960	9776	6016
9363-9387	377	15000	9802	6032
9388-9412	378	15040	9828	6048
9413-9437	379	15080	9854	6064
9438-9462	380	15120	9880	6080
9463-9487	381	15160	9906	6096
9488-9512	382	15200	9932	6112
9513-9537	383	15240	9958	6128
9538-9562	384	15280	9984	6144
9563-9587	385	15320	10010	6160
9588-9612	386	15360	10036	6176
9613-9637	387	15400	10062	6192
9638-9662	388	15440	10088	6208
9663-9687	389	15480	10114	6224
9688-9712	390	15520	10140	6240
9713-9737	391	15560	10166	6256
9738-9762	392	15600	10192	6272
9763-9787	393	15640	10218	6288
9788-9812	394	15680	10244	6304
9813-9837	395	15720	10270	6320
9838-9862	396	15760	10296	6336
9863-9887	397	15800	10322	6352
9888-9912	398	15840	10348	6368
9913-9937	399	15880	10374	6384
9938-9962	400	15920	10400	6400
9963-9987	401	15960	10426	6416
9988-10012	402	16000	10452	6432
10013-10037	403	16040	10478	6448
10038-10062	404	16080	10504	6464
10063-10087	405	16120	10530	6480
10088-10112	406	16160	10556	6496
10113-10137	407	16200	10582	6512
10138-10162	408	16240	10608	6528
10163-10187	409	16280	10634	6544
10188-10212	410	16320	10660	6560
10213-10237	411	16360	10686	6576

PART A HIGHEST QUARTERLY WAGE	PART B RATE OF COMP	PART C QUALIF. WAGE	PART D AMOUNT OF COMPENSATION 26 WKS	PART E AMOUNT OF COMPENSATION 16WKS
\$10263-10287	413	16440	10738	6608
10288-10312	414	16480	10764	6624
10313-10337	415	16520	10790	6640
10338-10362	416	16560	10816	6656
10363-10387	417	16600	10842	6672
10388-10412	418	16640	10868	6688
10413-10437	419	16680	10894	6704
10438-10462	420	16720	10920	6720
10463-10487	421	16760	10946	6736
10488-10512	422	16800	10972	6752
10513-10537	423	16840	10998	6768
10538-10562	424	16880	11024	6784
10563-10587	425	16920	11050	6800
10588-10612	426	16960	11076	6816
10613-10637	427	17000	11102	6832
10638-10662	428	17040	11128	6848
10663-10687	429	17080	11154	6864
10688 or more	430	*17120	11180	6880

\*The claimant will be ineligible for benefits unless 20 percent of the \$17120 qualifying wages was paid in a quarter or quarters other than the high quarter.



### **Authority**

The provisions of this Appendix A issued under sections 201(a) and 404(e)(2) of the act of December 5, 1936 (P. L. 2897 (1937) No. 1) (43 P. S. § § 761(a) and 804(e)(2)).

### **Source**

The provisions of this Appendix A adopted December 17, 1971, effective December 18, 1971, 1 Pa.B. 2319; corrected December 24, 1971, effective January 1, 1972, 1 Pa.B. 2346; amended December 15, 1972, effective January 1, 1973, 2 Pa.B. 2327; amended December 15, 1973, effective January 1, 1974, 3 Pa.B. 2817; amended December 20, 1974, effective 30 days subsequent to final approval of the act of December 5, 1974, 4 Pa.B. 2568; amended December 19, 1975, effective January 4, 1976, 5 Pa.B. 3272; amended December 17, 1976, effective January 2, 1977, 6 Pa.B. 3113; amended December 17, 1977, effective January 1, 1978, 7 Pa.B. 3784; amended December 30, 1978, effective January 1, 1979, 8 Pa.B. 3812; amended December 22, 1979, effective January 1, 1980, 9 Pa.B. 4168; amended December 25, 1981, effective January 1, 1982, 11 Pa.B. 4439; amended December 31, 1982, effective January 1, 1983, 13 Pa.B. 17; corrected January 21, 1983, effective January 1, 1983, 13 Pa.B. 522; amended December 30, 1983, effective January 1, 1984, 13 Pa.B. 4013; amended December 28, 1984, effective December 29, 1984, 14 Pa.B. 4688; amended December 28, 1984, effective January 1, 1985, 14 Pa.B. 4719; amended January 3, 1985, effective January 1, 1986, 15 Pa.B. 50; amended December 26, 1986, effective January 1, 1987, 16 Pa.B. 5004; amended December 25, 1987, effective January 1, 1988, 17 Pa.B. 5359; amended December 23, 1988, effective January 1, 1989, 18 Pa.B. 5675; amended December 22, 1989, effective January 1, 1990, 19 Pa.B. 5467; amended December 28, 1990, effective January 1, 1991, 20 Pa.B. 6431; amended December 27, 1991, effective January 1, 1992, 21 Pa.B. 6006; amended December 31, 1992, effective January 1, 1993, 23 Pa.B. 45; amended December 31, 1993, effective January 1, 1994, 24 Pa.B. 75; amended December 30, 1994, effective January 1, 1995, 24 Pa.B. 6604; amended January 5, 1996, effective January 1, 1996, 26 Pa.B. 64; amended January 3, 1997, effective January 1, 1997, 27 Pa.B. 62; amended December 26, 1997, effective January 1, 1998, 27 Pa.B. 6859; amended December 31, 1998, effective January 1, 1999, 29 Pa.B. 69; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 83; amended December 22, 2000, effective January 1, 2001, 30 Pa.B. 6651. Immediately preceding text appears at serial pages (209628) to (209636) and (262675) to (262677).

### **Cross References**

This section cited in 34 Pa. Code § 65.111 (relating to benefit table); and 34 Pa. Code § 65.112 (relating to extending or contracting benefit table).