

§1193. Disqualification

An individual shall be disqualified for benefits:

1. Voluntarily leaves work.

A. For the week in which the claimant left regular employment voluntarily without good cause attributable to that employment. The disqualification continues until the claimant has earned 4 times the claimant's weekly benefit amount in employment by an employer. A claimant may not be disqualified under this paragraph if:

(1) The leaving was caused by the illness or disability of the claimant or an immediate family member and the claimant took all reasonable precautions to protect the claimant's employment status by promptly notifying the employer of the need for time off, a change or reduction in hours or a shift change and being advised by the employer that the time off or change or reduction in hours or shift change cannot or will not be accommodated;

(2) The leaving was necessary to accompany, follow or join the claimant's spouse in a new place of residence;

(3) The leaving was in good faith in order to accept new employment on a permanent full-time basis and the new employment did not materialize for reasons attributable to the new employing unit;

(4) The leaving was necessary to protect the claimant or any member of the claimant's immediate family from domestic abuse or the leaving was due to domestic violence that caused the claimant reasonably to believe that the claimant's continued employment would jeopardize the safety of the claimant or any member of the claimant's immediate family and the claimant made all reasonable efforts to preserve the employment;

(5) The claimant's employer announced in writing to employees that it planned to reduce the work force through a layoff or reduction in force and that employees may offer to be among those included in the layoff or reduction in force, at which time the claimant offered to be one of the employees included in the layoff or reduction in force and the claimant's employer accepted the claimant's offer, thereby ending the employment relationship; or

(6) The leaving was due to the unexpected loss of child or elder care for which the claimant was not at fault and for which no work alternatives such as changes in hours or a leave of absence or alternate child or elder care options were available despite good faith efforts made by the claimant to resolve the issue and continue working.

Separation from employment based on the compelling family reasons in subparagraphs (1), (2), (4) and (6) does not result in disqualification. [PL 2021, c. 456, §22 (AMD).]

B. For the duration of the individual's unemployment period subsequent to the individual's having retired; or having been retired from regular employment as a result of a recognized employer policy or program, under which the individual is entitled to receive pension payments, if so found by the deputy, and disqualification continues until the claimant has earned 6 times the claimant's weekly benefit amount in employment by an employer; [RR 2023, c. 2, Pt. E, §93 (COR).]

C. For the duration of a leave of absence or sabbatical leave that has been mutually agreed to by the employee and the employer. [PL 2017, c. 117, §7 (AMD).]

D. For the duration of a partial separation or reduction of hours initiated at the employee's request and agreed to by the employee and employer; [PL 2017, c. 117, §8 (NEW).]
[RR 2023, c. 2, Pt. E, §93 (COR).]

2. Discharge for misconduct. For the week in which the individual has been discharged for misconduct connected with the individual's work, if so found by the deputy, and disqualification

continues until claimant has earned 8 times the claimant's weekly benefit amount in employment by an employer.

A. For the duration of any period for which the individual has been suspended from the individual's work by the individual's employer as discipline for misconduct, if so found by the deputy, or until the claimant has earned 8 times the claimant's weekly benefit amount in employment by an employer; [PL 2011, c. 645, §6 (AMD).]
[PL 2011, c. 645, §6 (AMD).]

3. Refused to accept work. For the duration of the individual's unemployment subsequent to the individual's having refused to accept an offer of suitable work for which the individual is reasonably fitted, or having refused to accept a referral to a suitable job opportunity when directed to do so by a local employment office of this State or another state or if an employer is unable to contact a former employee at last known or given address, for the purpose of recall to suitable employment; or the individual fails to respond to a request to report to the local office for the purpose of a referral to a suitable job, and the disqualification continues until claimant has earned 10 times the claimant's weekly benefit amount in employment by an employer. If the deputy determines that refusal has occurred for cause of necessitous and compelling nature, the individual is ineligible while such inability or unavailability continues, but is eligible to receive prorated benefits for that portion of the week during which the individual was able and available.

A. In determining whether or not any work is suitable for an individual during the first 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation and the distance of the available work from the individual's residence.

In determining whether or not work is suitable for an individual after the first 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness, the individual's prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation and the distance of the available work from the individual's residence. The individual's prior earnings may not be considered with respect to an offer of or referral to an otherwise suitable job that pays wages equal to or exceeding the average weekly wage in the State. [PL 2011, c. 645, §7 (AMD).]

B. Notwithstanding any other provisions of this chapter, work may not be considered suitable and benefits may not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute;
- (2) If the wages, hours or other conditions of work, such as fringe benefits, are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining or maintaining membership in any bona fide labor organization;
- (4) If the position offered is the same one previously vacated by the claimant for good cause attributable to that employment or is the position that the employee left for reasons attributable to that employment, but which were found insufficient to relieve disqualification for benefits under subsection 1, paragraph A, as long as, in either instance, the specific good cause or specific reasons for leaving have not been removed or otherwise changed; and

(5) If the position offered is on a shift, the greater part of which falls between the hours of midnight and 5 a.m., and is refused because of parental obligation, the need to care for an immediate family member or the unavailability of a personal care attendant required to assist the unemployed individual who is a person with a disability; [PL 2023, c. 233, §§4, 5 (AMD).]

[PL 2023, c. 233, §§4, 5 (AMD).]

4. Stoppage of work. For any week with respect to which the deputy, after notification by the Director of Unemployment Compensation under section 1194, subsection 2, finds that the claimant's total or partial unemployment is due to a stoppage of work that exists because of a labor dispute at the factory, establishment or other premises at which the claimant is or was employed, or there would have been a stoppage of work had substantially normal operations not been maintained with other personnel previously and currently employed by the same employer and any other additional personnel that the employer may hire to perform tasks not previously done by the striking employees. This subsection does not apply if it is shown to the satisfaction of the deputy that:

A. The claimant is not participating in or financing or directly interested in the labor dispute that caused the stoppage of work; [PL 1997, c. 391, §1 (AMD).]

B. The claimant does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; [PL 1997, c. 391, §1 (AMD).]

C. The claimant has obtained employment subsequent to the beginning of the stoppage of work and has earned at least 8 times the claimant's weekly benefit amount in employment by an employer or has been in employment by an employer for 5 full weeks; [PL 1997, c. 391, §1 (AMD).]

D. The claimant became unemployed because of a strike or lockout caused by an employer's willful failure to observe the terms of the safety and health section of a union contract; an employer's willful failure to comply in a timely fashion with an official citation for a violation of federal and state laws involving occupational safety and health; or the quitting of labor by an employee or employees in good faith because of an abnormally dangerous condition for work at the place of employment of that employee or employees; provided that the strike or lockout does not extend past the time of the employer's compliance with the safety and health section of the union contract, the employer's compliance with the official citation or the finding that an abnormally dangerous condition does not exist by a federal or state official empowered to issue official citations for violation of federal and state laws involving occupational safety and health; or [PL 1997, c. 391, §1 (AMD).]

E. The claimant became unemployed because of a lockout by the employer. For purposes of this subsection, the word "lockout" means the withholding of employment by an employer from its employees for the purpose of resisting their demands or gaining a concession from them. [PL 1997, c. 391, §1 (NEW).]

If in any case separate branches of work that are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department must, for the purposes of this subsection, be deemed to be a separate factory, establishment or other premises; [PL 1997, c. 391, §1 (AMD).]

5. Receiving remuneration. For any week with respect to which the individual is receiving, has been scheduled to receive or has received remuneration in the form of:

A. Dismissal wages, wages in lieu of notice or terminal pay; or [PL 2019, c. 419, §1 (AMD).]

A-1. [PL 2019, c. 419, §1 (RP).]

B. Benefits under the unemployment compensation or employment security law of any state or similar law of the United States. [PL 1985, c. 506, Pt. A, §51 (RPR).]

C. [PL 1981, c. 149, §1 (RP).]

If the remuneration under paragraph A is less than the benefits that would otherwise be due under this chapter, the individual is entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of the remuneration, rounded to the nearest lower full dollar amount; [PL 2019, c. 419, §1 (AMD).]

6. Has falsified. For any week for which the deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly failed to disclose a material fact in the claimant's application to obtain benefits from any state or federal unemployment compensation program administered by the bureau. In addition, for a first or 2nd occurrence, the claimant is ineligible to receive any benefits for a period of not less than 6 months nor more than one year from the mailing date of the determination, and the commissioner shall assess a penalty of 50% of the benefits falsely obtained for the first occurrence and 75% for the 2nd occurrence. If an individual is disqualified for a 3rd occurrence of statement falsification or misrepresentation in an effort to obtain benefits, the commissioner shall assess a penalty of 100% of the benefits falsely obtained and the claimant is disqualified from receiving benefits for a period of time to be determined by the commissioner. An amount equal to 15% of each overpayment on which these penalties were assessed must be transferred directly into the fund account upon recovery; [PL 2013, c. 314, §2 (AMD).]

7. Discharged for crime. For the period of unemployment next ensuing with respect to which the individual was discharged for conviction of a felony or misdemeanor in connection with the individual's work. The ineligibility of the individual continues for all weeks subsequent until the individual has thereafter earned \$600 or 8 times the individual's weekly benefit amount, whichever is greater, in employment by an employer; [RR 2023, c. 2, Pt. E, §94 (COR).]

7-A. Absence from work due to incarceration. For the duration of the individual's unemployment subsequent to a discharge arising from the individual's absence from work for more than 2 workdays due to the individual's incarceration for conviction of a criminal offense. This disqualification continues until the individual has earned 8 times the individual's weekly benefit amount in employment by an employer; or [PL 2017, c. 117, §9 (AMD).]

8. Retirement benefits.
[PL 1981, c. 149, §3 (RP).]

9. Receiving pension.
[PL 2007, c. 352, Pt. B, §1 (RP).]

10. Receiving pension. Except as provided in this subsection, for any week with respect to which the individual is receiving a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer.

A. The individual receives benefits with no reduction under this subsection if:

- (1) The individual is receiving a pension paid under the United States Social Security Act or any other pension or plan to which the individual made at least 50% of the contributions;
- (2) All contributions to the plan were made by the individual and an employer or any other person or organization who is not a base period or chargeable employer; or

(3) The services performed for the employer by the individual during the base period, or remuneration received for these services, did not affect the individual's eligibility for, or increase the amount of, that pension, retirement or retired pay, annuity or similar payment. [PL 2007, c. 352, Pt. B, §2 (NEW).]

B. If the individual contributed to the plan, but not at least 50% of the contributions, the individual receives a benefit reduced by the prorated weekly amount of the pension after deduction of that portion of the pension that is directly attributable to the percentage of the contributions made to the plan by that individual. The benefit may not be reduced below zero. [PL 2007, c. 352, Pt. B, §2 (NEW).]

C. If the individual did not contribute to the plan, the individual receives a benefit reduced by the full prorated weekly amount of the pension received. The benefit may not be reduced below zero. [PL 2011, c. 516, §1 (NEW).]

[PL 2011, c. 516, §1 (AMD).]

SECTION HISTORY

PL 1965, c. 381, §§13-18 (AMD). PL 1965, c. 457, §4 (AMD). PL 1967, c. 293 (AMD). PL 1969, c. 176 (AMD). PL 1971, c. 209 (AMD). PL 1971, c. 305 (AMD). PL 1971, c. 422 (AMD). PL 1971, c. 538, §28 (AMD). PL 1973, c. 555, §14 (AMD). PL 1975, c. 537 (AMD). PL 1975, c. 770, §123 (AMD). PL 1977, c. 472, §§1,1-A,2 (AMD). PL 1977, c. 536 (AMD). PL 1979, c. 98 (AMD). PL 1979, c. 428, §§1-6 (AMD). PL 1979, c. 499 (AMD). PL 1979, c. 515, §§15-16A (AMD). PL 1979, c. 579, §45 (AMD). PL 1979, c. 651, §§46,47 (AMD). PL 1979, c. 663, §161 (AMD). PL 1981, c. 149, §§1-4 (AMD). PL 1981, c. 470, §A146 (AMD). PL 1983, c. 13, §8 (AMD). PL 1983, c. 257, §2 (AMD). PL 1983, c. 305, §§4,5 (AMD). PL 1983, c. 351, §17 (AMD). PL 1983, c. 650, §1 (AMD). PL 1983, c. 753, §1 (AMD). PL 1985, c. 66 (AMD). PL 1985, c. 348, §6 (AMD). PL 1985, c. 420, §§1,2 (AMD). PL 1985, c. 506, §A51 (AMD). PL 1985, c. 737, §A72 (AMD). PL 1987, c. 365, §1 (AMD). PL 1989, c. 702, §F1 (AMD). PL 1991, c. 560, §2 (AMD). PL 1997, c. 391, §1 (AMD). PL 1999, c. 464, §7 (AMD). PL 2003, c. 28, §1 (AMD). PL 2007, c. 352, Pt. B, §§1, 2 (AMD). PL 2009, c. 33, §1 (AMD). PL 2009, c. 638, §1 (AMD). PL 2011, c. 516, §1 (AMD). PL 2011, c. 645, §§6-9 (AMD). PL 2013, c. 314, §2 (AMD). PL 2017, c. 117, §§6-9 (AMD). PL 2019, c. 419, §1 (AMD). PL 2021, c. 348, §40 (AMD). PL 2021, c. 456, §22 (AMD). PL 2023, c. 233, §§4, 5 (AMD). RR 2023, c. 2, Pt. E, §§93, 94 (COR).

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