

§1195. Extended benefits**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. Definitions. Notwithstanding any other provisions of this chapter, the following words, as used in this section, shall have the following meanings, unless the context clearly requires otherwise.

A. "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(1) Has received, prior to that week, all of the regular benefits that were available to the individual under this chapter or any other state law, including dependents' allowances and benefits payable to federal civilian employees and ex-service members under 5 United States Code, Chapter 85, in the individual's current benefit year that includes that week; except that for the purposes of this paragraph, an individual is deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in the individual's benefit year, the individual may subsequently be determined to be entitled to added regular benefits, or the individual may be entitled to regular benefits with respect to future weeks of unemployment, but those benefits are not payable with respect to that week of unemployment by reason of section 1251;

(2) The individual's benefit year having expired prior to that week, has no or insufficient wages or employment, or both, to establish a new benefit year or, subsequent to December 31, 1971, the individual does not qualify by having sufficient wages or employment, or both, as provided by section 1192, subsection 5, since the beginning of the individual's prior benefit year; and

(3) Does not have a right to unemployment benefits or allowances, as the case may be, under the federal Railroad Unemployment Insurance Act, or under such other federal laws as are specified in regulations issued by the United States Secretary of Labor and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual is considered an exhaustee if the other provisions of this definition are met. [RR 2023, c. 2, Pt. E, §95 (COR).]

B. "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year that begin in an extended benefit period and, if the individual's benefit year ends within the extended benefit period, any weeks thereafter that begin in the period. [RR 2023, c. 2, Pt. E, §96 (COR).]

C. Extended benefit period. "Extended benefit period" means a period which:

(1) Begins with the 3rd week after a week for which there is a state "on" indicator; and

(2) Ends with either of the following weeks, whichever occurs later:

(a) The 3rd week after the first week for which there is a state "off" indicator; or

(b) The 13th consecutive week of such period; provided that no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this State. [PL 1981, c. 548, §3 (RPR).]

D. "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-service members pursuant to 5 United States Code, Chapter 85, payable to an individual under this section for weeks of unemployment in the individual's eligibility period. [RR 2023, c. 2, Pt. E, §97 (COR).]

E. [PL 1981, c. 548, §4 (RP).]

F. [PL 1981, c. 548, §4 (RP).]

G. "Rate of insured unemployment," for purposes of paragraphs H and I, means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the commissioner on the basis of the commissioner's reports to the United States Secretary of Labor, by the average monthly employment covered under this chapter for the first 4 of the most recent 6 completed calendar quarters ending before the end of the 13-week period. Computations required by this paragraph must be made by the commissioner in accordance with regulations prescribed by the United States Secretary of Labor. [RR 2023, c. 2, Pt. E, §98 (COR).]

H. State "off" indicator. There is a "state 'off' indicator" for this State for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter:

- (1) Was less than 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, or
- (2) Was less than 4%, except that for weeks beginning after September 25, 1982, the percentage shall be 5%. [PL 1981, c. 548, §5 (AMD).]

I. State "on" indicator. There is a "state 'on' indicator" for this State for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter:

- (1) Equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and
- (2) Equaled or exceeded 4%, except that for weeks beginning after September 25, 1982, the percentage shall be 5%. [PL 1981, c. 548, §6 (AMD).]

J. "Regular benefits" means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-service members pursuant to 5 United States Code, Chapter 85, other than extended benefits. [RR 2023, c. 2, Pt. E, §99 (COR).]

K. State law. "State law" means the unemployment compensation or employment security law of any state, approved by the United States Secretary of Labor under the Internal Revenue Code of 1954, Section 3304. [PL 1971, c. 119 (NEW).]

L. With respect to benefits for weeks of unemployment beginning after June 1, 1977, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph I:

- (1) Did not contain subparagraph (1) thereof; and
- (2) The figure "4" contained in subparagraph (2) thereof were "5;"

except that, notwithstanding any such provision of this subsection, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator. For weeks beginning after September 25, 1982, the figure 5 in subparagraph (2) shall be 6. [PL 1981, c. 548, §7 (AMD).]

M. [PL 1977, c. 570, §25 (RP).]
[RR 2023, c. 2, Pt. E, §§95-99 (COR).]

1-A. Alternate trigger. In addition to the conditions provided in subsection 1, paragraphs H and I with respect to weeks of unemployment beginning on or after January 1, 2022, the determination of whether there has been a state "on" indicator or a state "off" indicator beginning or ending any extended benefit period must be made under this subsection if:

A. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 6.5%; and [PL 2021, c. 456, §27 (NEW).]

B. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in paragraph A equals or exceeds 110% of the average rate for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years. [PL 2021, c. 456, §27 (NEW).]

There is a state "off" indicator for a week based on the rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

[PL 2021, c. 456, §27 (NEW).]

2. Effect of state law provisions relating to regular benefits on claims for, and the payment of, extended benefits. Except when the result would be inconsistent with the other provisions of this subchapter, as provided in the rules of the commissioner, the provisions of this chapter that apply to claims for, or the payment of, regular benefits apply to claims for, and the payment of, extended benefits.

[PL 2021, c. 456, §28 (AMD).]

3. Eligibility requirements for extended benefits. An individual is eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the deputy finds that with respect to that week:

A. The individual is an exhaustee; [RR 2023, c. 2, Pt. E, §100 (COR).]

B. The individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and [RR 2023, c. 2, Pt. E, §100 (COR).]

C. For each individual who files an initial claim for extended benefits after September 25, 1982, the individual has been paid wages for insured work during the individual's base period equal to at least 1 1/2 times the wages paid in that calendar quarter of the individual's base period in which those wages were highest. [RR 2023, c. 2, Pt. E, §100 (COR).]

[RR 2023, c. 2, Pt. E, §100 (COR).]

3-A. (TEXT EFFECTIVE ON CONTINGENCY: Not effective if inconsistent with Federal-State Extended Compensation Act of 1970, as amended) Failure to accept or seek work as grounds for ineligibility. Notwithstanding subsection 3, an individual is ineligible for payment of extended benefits for any week of unemployment in that individual's eligibility period if the deputy finds that during such period:

A. The individual failed to accept an offer of suitable work, as defined under subsection 3-C, or failed to apply for any suitable work to which the individual was referred by the employment service; or [PL 1993, c. 22, §3 (AMD).]

B. The individual failed to actively engage in seeking work as prescribed under subsection 3-E, unless that individual is not actively engaged in seeking work because that individual is:

- (1) Before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty; or
- (2) Hospitalized for treatment of an emergency or a life-threatening condition. [PL 1993, c. 22, §3 (AMD).]

This subsection is not in effect for the weeks beginning after March 6, 1993 and before January 1, 1995.

This subsection is not in effect if inconsistent with the Federal-State Extended Compensation Act of 1970, as amended.

[PL 1993, c. 22, §3 (AMD).]

3-B. Additional ineligibility. An individual who has been found ineligible for extended benefits for reason of the provisions in subsection 3-A must also be denied benefits beginning with the first day of the week following the week in which that failure occurred and until the individual has been employed in each of 4 subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than 4 times the extended weekly benefit amount.

[RR 2023, c. 2, Pt. E, §101 (COR).]

3-C. Definition. For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within the individual's capabilities, subject to the following:

- A. The gross average weekly remuneration payable for the work must exceed the sum of:
 - (1) The individual's extended weekly benefit amount as determined under subsection 4; and
 - (2) The amount, if any, of supplemental unemployment benefits as defined in the United States Internal Revenue Code of 1954, Section 501(c)(17)(D), payable to the individual for that week; [PL 1981, c. 228 (NEW).]
- B. The work must pay wages not less than the higher of:
 - (1) The minimum wage provided by the United States Fair Labor Standards Act of 1938, Section 6(a)(1), without regard to any exemption; or
 - (2) The applicable state or local minimum wage; and [PL 1981, c. 228 (NEW).]
- C. No individual may be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability described in this subsection if:
 - (1) The position was not offered to the individual in writing or was not listed with the employment service;
 - (2) The failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 1193, subsection 3 to the extent that the criteria of suitability in that section are not inconsistent with this subsection; and
 - (3) The individual furnishes satisfactory evidence to the deputy that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If the evidence is determined satisfactory for this purpose, the determination of whether any work is suitable with respect to that individual must be made in accordance with the description of suitable work for regular benefit claimants in section 1193, subsection 3 without regard to the definition specified by this subsection. [RR 2023, c. 2, Pt. E, §102 (COR).]

[RR 2023, c. 2, Pt. E, §102 (COR).]

3-D. Work to be in accord with labor standard provisions. Notwithstanding the provisions of subsection 3 to the contrary, no work may be deemed to be suitable work, for an individual, which does not accord with the labor standard provisions required by the United States Internal Revenue Code of 1954, Section 3304(a)(5) and set forth under section 1193, subsection 3, paragraph B.

[PL 1981, c. 228 (NEW).]

3-E. Actively engaged in seeking work. For the purposes of subsection 3-A, paragraph B, an individual shall be treated as actively engaged in seeking work during any week if:

A. The individual has engaged in a systematic and sustained effort to obtain work during that week; and [PL 1981, c. 228 (NEW).]

B. The individual furnishes tangible evidence that the individual has engaged in that effort during that week. [RR 2023, c. 2, Pt. E, §103 (COR).]

[RR 2023, c. 2, Pt. E, §103 (COR).]

3-F. Referred to suitable work. The employment service shall refer any claimant entitled to extended benefits under subsections 3-A to 3-E to any suitable work which meets the criteria prescribed in subsection 3-C.

[PL 1981, c. 228 (NEW).]

4. Weekly extended benefit amount. The weekly extended benefit amount payable to an individual for a week of total unemployment in the eligibility period is an amount equal to the weekly benefit amount payable to the individual during the applicable benefit year.

[RR 2023, c. 2, Pt. E, §104 (COR).]

5. Total extended benefit amount. The total extended benefit amount payable to an eligible individual with respect to the individual's applicable benefit year is the lesser of the following amounts:

A. Fifty percent of the total amount of regular benefits that were payable to the individual under this chapter in the applicable benefit year; [RR 2023, c. 2, Pt. E, §105 (COR).]

B. Thirteen times the individual's weekly benefit amount that was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year; and [RR 2023, c. 2, Pt. E, §105 (COR).]

C. Thirty-nine times the individual's weekly benefit amount that was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits that were paid, or deemed paid, to the individual under this chapter with respect to the benefit year. [RR 2023, c. 2, Pt. E, §105 (COR).]

Notwithstanding any other provisions of this chapter, if the benefit year of an individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, except for this subsection, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, must be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year multiplied by the individual's weekly benefit amount for extended benefits.

[RR 2023, c. 2, Pt. E, §105 (COR).]

5-A. Total extended benefit amount in high unemployment period. With respect to weeks of unemployment beginning on or after January 1, 2022, effective with respect to weeks beginning in a high unemployment period, subsection 5 must be applied by substituting:

A. "Eighty percent" for "50%" in paragraph A; [PL 2021, c. 456, §29 (NEW).]

B. "Twenty" for "13" in paragraph B; and [PL 2021, c. 456, §29 (NEW).]

C. "Forty-six" for "39" in paragraph C. [PL 2021, c. 456, §29 (NEW).]

For purposes of this subsection, "high unemployment period" means any period during which an extended benefit period would be in effect if subsection 1-A, paragraph A were applied by substituting "8%" for "6.5%."

[PL 2021, c. 456, §29 (NEW).]

6. Experience rating charges. The state portion of extended benefits paid under this subchapter shall be charged to the General Fund.

[PL 1971, c. 119 (NEW).]

7. Beginning and termination of extended benefit period. Whenever an extended benefit period is to become effective in this State, or an extended benefit period is to be terminated in this State the commissioner shall make an appropriate public announcement.

[PL 1981, c. 548, §11 (AMD).]

7-A. Cessation of interstate extended benefits. Payment of extended benefits shall not be made to any individual for any week beginning after June 1, 1981, if extended benefits are payable for that week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and no extended benefit period is in effect for that week in that state. This subsection shall not apply with respect to the first 2 weeks for which extended benefits are payable, determined without regard to this subsection, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.

[PL 1981, c. 104 (NEW).]

8. Administration. In the administration of the provisions of this section which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the commissioner shall take such action as may be necessary to ensure that the provisions are so interpreted and applied as to meet the requirements of such Federal Act as interpreted by the United States Department of Labor, and to secure to this State the full reimbursement of the federal share of extended and regular benefits paid under this chapter that are reimbursable under the Federal Act.

[PL 1977, c. 675, §22 (AMD).]

9. Notwithstanding any other provisions of this chapter, no employer's experience rating account shall be charged, and no employer shall be liable for payments in lieu of contributions, with respect to extended benefit payments which are wholly reimbursed to the State by the Federal Government.

[PL 1975, c. 299, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 119 (NEW). PL 1973, c. 753, §§1-3 (AMD). PL 1975, c. 299, §§1-4 (AMD). PL 1977, c. 247 (AMD). PL 1977, c. 570, §§23-25 (AMD). PL 1977, c. 675, §§18-22 (AMD). PL 1979, c. 127, §163 (AMD). PL 1979, c. 515, §17 (AMD). PL 1979, c. 541, §A183 (AMD). PL 1979, c. 579, §45 (AMD). PL 1979, c. 651, §§46,47 (AMD). PL 1981, c. 104 (AMD). PL 1981, c. 228 (AMD). PL 1981, c. 548, §§3-11 (AMD). PL 1981, c. 698, §118 (AMD). PL 1983, c. 305, §7 (AMD). PL 1983, c. 491 (AMD). PL 1993, c. 22, §3 (AMD). PL 2021, c. 456, §§27-29 (AMD). RR 2023, c. 2, Pt. E, §§95-105 (COR).

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