

2015 -- S 0761 SUBSTITUTE A

LC001800/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY -  
BENEFITS

Introduced By: Senators Lombardo, Conley, Lombardi, and Archambault

Date Introduced: March 24, 2015

Referred To: Senate Labor

(Labor & Training)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-44-39 and 28-44-40 of the General Laws in Chapter 28-44  
2 entitled "Employment Security - Benefits" are hereby amended to read as follows:

3 ~~28-44-39. Initial determination -- Notice -- Reconsideration of monetary~~  
4 ~~determination -- Reconsideration of other determination -- Appeal -- Interested party. --~~  
5 Initial determination -- Notice -- Reconsideration of monetary determination --  
6 Reconsideration of initial non-monetary determination -- Discovery of issue - Appeal --  
7 Interested party. -- (a) (1) The director shall promptly determine:

8 (i) Whether or not the claimant has met the eligibility requirements set forth in § 28-44-  
9 11. Thereupon the director shall promptly notify the claimant in writing of that monetary  
10 determination, including the reasons upon which the monetary determination was based. The  
11 director may at any time within one year from the date of the monetary determination either upon  
12 request of the claimant or on his or her own motion reconsider that determination if he or she  
13 finds that an error in computation or in identity has occurred in connection with it, or that  
14 additional wages pertinent to the status of the claimant have become available, or if that initial  
15 monetary determination was made as a result of a non-disclosure or misrepresentation of a  
16 material fact. The notice to an eligible claimant shall also include information as to his or her  
17 benefit year, his or her weekly benefit amount, his or her augmented weekly benefit amount if he  
18 or she has dependents, and the maximum amount of benefit credits to which he or she is entitled

1 for unemployment during his or her benefit year;

2 (ii) Whether or not the claimant is disqualified under any of the provisions of §§ 28-44-  
3 7, 28-44-12, 28-44-13, 28-44-16 -- 28-44-21, ~~28-42-62~~ 28-44-61, 28-44-62, 28-42-62.1, 28-44-  
4 63, 28-44-66 through 28-44-70, and 28-42-68. If the director determines that the claimant is not  
5 eligible to receive waiting period credit or benefits for any week or weeks due to a  
6 disqualification imposed under any of the provisions referred to in this subdivision, he or she  
7 shall promptly furnish to that claimant and to all interested parties, other than the board of review,  
8 written notice of that non-monetary determination together with a statement containing the  
9 reasons for the non-monetary determination, and the period of disqualification. The director, on  
10 his or her own motion, may at any time within one year from the date of the initial non-monetary  
11 determination set forth in this subdivision, reconsider the initial non-monetary determination if he  
12 or she finds that an error has occurred in connection with it or that the determination was a result  
13 of a mistake. If that initial non-monetary determination was made as the result of nondisclosure or  
14 misrepresentation of a material fact, then the director may reconsider the initial non-monetary  
15 determination within one year from the date of the discovery of the nondisclosed or  
16 misrepresented fact; provided, that no issue shall be addressed which is older than six (6) years  
17 as of the date of detection of the issue.

18 (2) If the director determines that the claimant is eligible to receive waiting period credit  
19 or benefits, he or she shall promptly furnish a written notice of that determination to the claimant  
20 and to all interested parties other than the board of review. All notices issued under this section  
21 shall contain a statement of the appeal rights of the parties.

22 (b) Unless the claimant or any other interested party who is entitled to notice requests a  
23 hearing within fifteen (15) days after the notice of determination has been mailed by the director  
24 to the last known address of the claimant and of any other interested party, the determination shall  
25 be final. For good cause shown the fifteen (15) day period may be extended. ~~The director, on his~~  
26 ~~or her own motion, may at any time within one year from the date of the determination set forth~~  
27 ~~in subdivision (a)(1) of this section reconsider the determination, if he or she finds that an error~~  
28 ~~has occurred in connection with it, or that the determination was made as a result of a mistake, or~~  
29 ~~the nondisclosure or misrepresentation of a material fact.~~

30 (c) For the purpose of this chapter, an "interested party" is deemed to be the director, the  
31 board of review, the claimant, and any employer or employing unit who has furnished  
32 information other than wage information in accordance with § 28-44-38(c).

33 (d) The director may, upon discovery of a previously undetected or unknown issue under  
34 the provisions of, or laws cited in, §§ 28-44-39(a)(1)(i) and 28-44-39(a)(1)(ii), conduct a fact-

1 finding investigation and may render a monetary or non-monetary initial determination of the  
2 issue within one year from the date of discovery of that issue; provided that no issue shall be  
3 addressed which is older than six (6) years as of the date of detection of the issue.

4 **28-44-40. Payment of benefits pending appeal. --** (a) If an appeal is filed by an  
5 employer, benefits shall be paid to an eligible claimant until that employer's appeal is finally  
6 determined. If the employer's appeal is finally sustained, no further benefits shall be paid to the  
7 claimant during any remaining portion of the disqualification period. Any benefits paid or  
8 payable to that claimant shall not be recoverable ~~in any manner~~ unless it is established to the  
9 satisfaction of the director that the erroneous payment was the result of fraud committed by the  
10 claimant.

11 (b) If, beginning on or after October 1, 2013, the director establishes that an erroneous  
12 payment was made to ~~an individual~~ a claimant due to fraud committed by the ~~individual for~~  
13 ~~overpayments and those overpayments are eligible to be recovered~~ claimant, this shall result in a  
14 recoverable overpayment and that individual shall also be liable to pay penalties and interest  
15 required under ~~subsection §§~~ §§ 28-42-68(a) and 28-42-68(c) for those erroneous payments.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY -  
BENEFITS

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1           This act would authorize the director of the department of labor and training to reconsider  
2 initial monetary determinations made under employment security benefits provisions of the  
3 general laws under certain circumstances, and would authorize the department to recover  
4 overpayments made to certain individuals due to certain fraud committed by the claimant, and  
5 would establish a six (6) year limitation when certain issues may be reconsidered.

6           This act would take effect upon passage.

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