

House Engrossed

unemployment benefits; requirements; disqualifications

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2108

AN ACT

AMENDING SECTIONS 23-634.01, 23-771, 23-773 AND 23-776, ARIZONA REVISED
STATUTES; RELATING TO EMPLOYMENT SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-634.01, Arizona Revised Statutes, is amended
3 to read:

4 23-634.01. Denial of benefits for failure to accept suitable
5 work or actively seek work; definition

6 A. Notwithstanding section 23-776, an individual who is found by
7 the department, with respect to any week in an eligibility period ~~which~~
8 THAT begins from and after April 4, 1981, to have failed to apply for or
9 accept available suitable work to which ~~he~~ THE INDIVIDUAL was referred by
10 the department or to have failed to actively engage in seeking work is
11 disqualified from receiving extended benefits. The disqualification shall
12 begin with the week in which the failure occurred and continue until the
13 individual has been employed in each of four subsequent weeks, whether or
14 not consecutive, and has earned remuneration equal to ~~not less than~~ AT
15 LEAST four times ~~his~~ THE INDIVIDUAL'S weekly benefit amount.

16 B. An individual shall not be denied extended benefits for failure
17 to accept an offer of or apply for available suitable work as defined in
18 subsection G of this section, if:

19 1. The position was not offered to the individual in writing or was
20 not listed with the department.

21 2. The failure would not result in a denial of benefits under
22 section 23-776 to the extent that the criteria of suitability in section
23 23-776 are not inconsistent with this section.

24 C. If an individual furnishes evidence satisfactory to the
25 department that prospects for obtaining work in ~~his~~ THE INDIVIDUAL'S
26 customary occupation within a reasonably short period are good, the
27 determination of whether any work is suitable with respect to the
28 individual shall be made in accordance with ~~the provisions of~~ section
29 23-776 without reference to the definition contained in this section.

30 D. Work shall not be considered suitable work under this section if
31 it would not be considered suitable under section 23-776, subsection ~~E~~ E.

32 E. For the purposes of this section, an individual shall be treated
33 as actively engaged in seeking work during any week if the department
34 finds from tangible evidence provided by the individual that ~~he~~ THE
35 INDIVIDUAL has engaged in a systematic and sustained effort to obtain work
36 during such week.

37 F. The department shall refer an individual entitled to extended
38 benefits under this chapter to any work ~~which~~ THAT is suitable work.

39 G. For the purposes of this section, "suitable work" with respect
40 to any individual means work within the individual's capabilities in
41 which:

42 1. The gross average weekly wages payable for the work exceed the
43 sum of the individual's weekly benefit amount plus the amount of any
44 supplemental unemployment benefits payable to the individual for such
45 week.

1 2. The wages for the work are at least equal to the higher of:
2 (a) The minimum wages provided by section 6(a)(1) of the fair labor
3 standards act of 1938, without regard to any exemption.

4 (b) The state or local minimum wage.

5 Sec. 2. Section 23-771, Arizona Revised Statutes, is amended to
6 read:

7 23-771. Eligibility for benefits

8 A. An unemployed individual is eligible to receive benefits with
9 respect to any week only if the department finds that the individual:

10 1. Has registered for work at and thereafter has continued to
11 report at an employment office in accordance with the regulations
12 prescribed by the department.

13 2. Has made a claim for benefits in accordance with section 23-772.

14 3. Is able to work.

15 4. IS AVAILABLE FOR WORK.

16 ~~4.~~ 5. Except for an individual who is applying for shared work
17 benefits pursuant to article 5.1 of this chapter, ~~is available for work~~
18 ~~and both of the following apply:~~

19 ~~(a) The individual has engaged in a systematic and sustained effort~~
20 ~~to obtain work during at least four days of the week.~~

21 ~~(b) The individual has made at least one job contact per day on~~
22 ~~four different days of the week.~~ ACTIVELY SEEKS AND APPLIES FOR SUITABLE
23 WORK AND:

24 (a) CONDUCTS AT LEAST FIVE WORK SEARCH ACTIONS EACH WEEK IN ORDER
25 TO QUALIFY AS ACTIVELY SEEKING AND APPLYING FOR SUITABLE WORK. THE
26 ACTIONS SHALL INCLUDE ANY OF THE FOLLOWING:

27 (i) SUBMITTING RESUMES.

28 (ii) COMPLETING JOB APPLICATIONS.

29 (iii) ATTENDING JOB FAIRS.

30 (iv) ATTENDING INTERVIEWS WITH POTENTIAL EMPLOYERS.

31 (v) ATTENDING A DEPARTMENT-APPROVED TRAINING PROGRAM, WHICH SHALL
32 COUNT AS ONE WORK SEARCH ACTION FOR THE WEEK THE INDIVIDUAL ATTENDED THE
33 TRAINING PROGRAM.

34 (b) IF THE INDIVIDUAL IS APPLYING FOR A WEEKLY BENEFIT, PROVIDES A
35 WEEKLY REPORT TO THE DEPARTMENT THAT DETAILS THE INDIVIDUAL'S WORK SEARCH
36 ACTIONS FOR EVERY WEEK A BENEFIT IS SOUGHT.

37 ~~5.~~ 6. Has been unemployed for a waiting period of one week. A
38 week is not counted as a week of unemployment for the purpose of this
39 paragraph:

40 (a) Unless it occurs within the benefit year that includes the week
41 with respect to which the individual claims payment of benefits.

42 (b) Unless the individual was eligible for benefits with respect to
43 the week as provided in this section and sections 23-775, 23-776 and
44 23-777.

45 (c) If benefits have been paid in respect to the week.

1 ~~6.~~ 7. Has met one of the following requirements:

2 (a) Has been paid wages for insured work during the individual's
3 base period equal to at least one and one-half times the wages paid to the
4 individual in the calendar quarter of the individual's base period in
5 which the wages were highest, and the individual has been paid wages for
6 insured work in one calendar quarter of the individual's base period equal
7 to an amount that is equal to at least three hundred ninety times the
8 minimum wage prescribed by section 23-363 that is in effect when the
9 individual files a claim for benefits.

10 (b) For a benefit year beginning on or after September 2, 1984, has
11 been paid wages for insured work during at least two quarters of the
12 individual's base period and the amount of the wages paid in one quarter
13 would be sufficient to qualify the individual for the maximum weekly
14 benefit amount payable under this chapter and the total of the
15 individual's base-period wages is equal to or greater than the taxable
16 limit as specified in section 23-622, subsection B, paragraphs 1 and 2.

17 ~~7.~~ 8. Following the beginning date of a benefit year established
18 under this chapter or the unemployment compensation law of any other state
19 and before the effective date of a subsequent benefit year under this
20 chapter, has performed services whether or not in employment as defined in
21 section 23-615 for which wages were payable in an amount equal to or in
22 excess of eight times the weekly benefit amount for which the individual
23 is otherwise qualified under section 23-779. In making a determination
24 under this paragraph, the department shall use information available in
25 its records or require the individual to furnish necessary information
26 within thirty days after the date notice is given that the information is
27 required.

28 B. If an unemployed individual cannot establish a benefit year as
29 defined in section 23-609 due to receipt during the base period of
30 compensation for a temporary total disability pursuant to chapter 6 of
31 this title, or any similar federal law, the individual's base period shall
32 be the first four of the last five completed calendar quarters immediately
33 preceding the first day of the calendar week in which the disability
34 began. Wages previously used to establish a benefit year may not be
35 reused. This subsection does not apply unless all of the following occur:

36 1. The individual has filed a claim for benefits not later than the
37 fourth calendar week of unemployment after the end of the period of
38 disability.

39 2. The claim is filed within two years after the period of
40 disability begins.

41 3. The individual meets the requirements of subsection A of this
42 section.

1 4. The individual has attempted to return to the employment where
2 the temporary total disability occurred.

3 C. If an unemployed individual is a member of the national guard or
4 other reserve component of the United States armed forces, the individual
5 is not considered to be either employed or unavailable for work by reason
6 of the individual's participation in drill, training or other national
7 guard or reserve activity that occurs on not more than one weekend per
8 month or in lieu of a weekend drill or the equivalent.

9 D. The department shall not disqualify an individual from receiving
10 benefits under this chapter on the basis of the individual's separation
11 from employment if the individual is a victim of domestic violence and
12 leaves employment due to a documented case involving domestic violence
13 pursuant to section 13-3601 or 13-3601.02. Benefits paid to an individual
14 pursuant to this subsection shall not be charged against an employer's
15 account pursuant to section 23-727, subsection G.

16 E. The department shall not disqualify an individual from receiving
17 benefits under this chapter on the basis of the individual's separation
18 from employment if the individual was terminated from employment for not
19 receiving a COVID-19 vaccine or COVID-19 booster shot required by the
20 employer. Benefits paid to an individual pursuant to this subsection
21 shall not be charged against an employer's account pursuant to section
22 23-727 if the employer's requirement that employees receive the COVID-19
23 vaccine or COVID-19 booster shot is required by law.

24 F. For the purposes of subsection A, paragraph 6 of this section,
25 wages shall be counted as wages for insured work for benefit purposes with
26 respect to any benefit year only if that benefit year begins subsequent to
27 the date on which the employing unit by which those wages were paid has
28 become an employer subject to this chapter.

29 Sec. 3. Section 23-773, Arizona Revised Statutes, is amended to
30 read:

31 23-773. Examination and determination of claims

32 A. A representative designated by the department as a deputy shall
33 promptly examine any claim for benefits and, on the basis of the facts
34 found by the deputy, shall determine whether ~~or not~~ the claim is valid.
35 If the claim is valid, the deputy shall also determine the week with
36 respect to which the benefit year shall commence, the weekly benefit
37 amount payable and the maximum duration of the benefit.

38 B. The deputy shall promptly notify the claimant and any other
39 interested parties of the determination and the reasons for the
40 determination. Except as provided in subsection D of this section, unless
41 the claimant or an interested party, within seven calendar days after the
42 delivery of notification, or within fifteen calendar days after
43 notification was mailed to the claimant's or interested party's last known
44 address, files an appeal from the determination, it shall become final,
45 and benefits shall be paid or denied in accordance with the determination.

1 The department shall adopt rules to allow an appeal to be filed in
2 writing, electronically or by telephone. If an appeal tribunal affirms a
3 determination of the deputy allowing benefits, or the appeals board
4 affirms a determination or decision allowing benefits, the benefits shall
5 be paid regardless of any appeal that may thereafter be taken, but if that
6 decision is finally reversed, no employer's account shall be charged with
7 benefits so paid.

8 C. On receipt of a request from an interested party for information
9 about a deputy's determination made pursuant to this section or section
10 23-673, the department shall make available by memorandum or other written
11 document within five days after receipt of the request the following
12 information:

13 1. The facts considered and the facts relied on in making the
14 determination.

15 2. The specific statutes, regulations or other authority relied on
16 in making the determination.

17 3. The reasoning applied in making the determination.

18 D. Before the time for appeal as prescribed in subsection B of this
19 section has expired, an interested party may request a reconsidered
20 determination. The department shall examine the request and, within seven
21 calendar days, deny the request or issue a reconsidered determination.
22 The interested party may prove that a response was timely filed by using
23 evidence of fax records that documents the date and time when a faxed
24 response was transmitted and received by the department. A request for
25 reconsideration that is denied shall be treated as an appeal, and the same
26 procedure shall be followed as provided for in case of appeal from the
27 original determination. If a reconsidered determination is issued, the
28 time for appeal shall run from the date of issuance of the reconsidered
29 determination. The employer and the claimant shall each be ~~permitted no~~
30 ~~ALLOWED NOT~~ more than one request for reconsideration on each case.

31 E. Before the actual filing of an appeal under subsection B of this
32 section, but not later than the time ~~permitted~~ ~~ALLOWED~~ to appeal, the
33 department on its own motion may issue a reconsidered determination.
34 After the time for appeal has expired, but within one year after the
35 issuance of the original determination, the department with authorization
36 of the unemployment insurance program administrator may issue a
37 reconsidered determination, on the basis of newly discovered evidence that
38 by due diligence could not have been previously discovered, if no
39 administrative or judicial review has occurred or is pending on the
40 original determination. If a redetermination is based on fraud, the ~~one~~
41 ~~year~~ ~~ONE-YEAR~~ limitation on the issuance of redeterminations does not
42 apply.

1 F. Prompt notice in writing of any reconsidered determination under
2 subsection E of this section and the reasons for reconsideration shall be
3 given to all interested parties. An interested party may appeal within
4 the time prescribed under subsection B of this section, and the same
5 procedure shall be followed as provided for in case of an appeal from the
6 original determination.

7 G. IN DETERMINING THE VALIDITY OF CLAIMS PURSUANT TO SUBSECTION A
8 OF THIS SECTION, THE DEPARTMENT MAY NOT PAY BENEFITS FOR AN INITIAL OR
9 ONGOING CLAIM UNTIL THE INITIAL CLAIM IS CROSS-CHECKED, OR AN ONGOING
10 CLAIM IS CROSS-CHECKED ON A WEEKLY BASIS, AGAINST THE FOLLOWING DATA SETS:

11 1. THE NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES' INTEGRITY
12 DATA HUB.

13 2. THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
14 NATIONAL DIRECTORY OF NEW HIRES.

15 3. THE DEPARTMENT OF ECONOMIC SECURITY'S NEW HIRE REPORTING SYSTEM.

16 4. THE STATE DEPARTMENT OF CORRECTIONS INMATE DATABASES.

17 5. THE SOCIAL SECURITY ADMINISTRATION'S PRISONER UPDATE PROCESSING
18 SYSTEM.

19 6. THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL VITAL
20 STATISTICS SYSTEM'S DEATH RECORDS DATABASE.

21 7. THE DEPARTMENT OF HEALTH SERVICES BUREAU OF VITAL RECORDS DEATH
22 RECORDS DATABASE.

23 H. IF A CROSS-CHECK PURSUANT TO SUBSECTION G OF THIS SECTION
24 RESULTS IN INFORMATION INDICATING THAT A CLAIM IS INELIGIBLE OR
25 FRAUDULENT, THAT CLAIM MAY NOT BE PAID, AND THE CLAIMANT SHALL BE
26 DISQUALIFIED FROM RECEIVING BENEFITS PURSUANT TO SECTION 23-778 AND
27 REFERRED FOR PROSECUTION.

28 I. THE DEPARTMENT SHALL EXAMINE ANY INITIAL CLAIM FOR BENEFITS AND
29 CONFIRM ITS VALIDITY BEFORE BENEFITS ARE PAID IF THE INITIAL CLAIM:

30 1. WAS SUBMITTED ELECTRONICALLY THROUGH AN INTERNET PROTOCOL
31 ADDRESS LOCATED OUTSIDE OF THIS STATE OR THE UNITED STATES.

32 2. REFERENCES A MAILING ADDRESS OR RESIDENTIAL ADDRESS FOR WHICH
33 ANOTHER CURRENT CLAIM WAS SUBMITTED.

34 3. IS ASSOCIATED WITH A DIRECT DEPOSIT FOR A BANK ACCOUNT ALREADY
35 USED FOR ANOTHER CURRENT CLAIM.

36 J. IF A FRAUDULENT CLAIM WAS FILED, THE DEPARTMENT MAY REFER THE
37 MATTER FOR PROSECUTION.

38 Sec. 4. Section 23-776, Arizona Revised Statutes, is amended to
39 read:

40 23-776. Disqualification from benefits for failure to accept
41 suitable work or actively seek work; exceptions

42 A. An individual shall be disqualified for benefits if the
43 department finds the individual has failed without cause ~~either to apply~~
44 ~~for available, suitable work, when so directed by the employment office or~~
45 ~~the department, to actively engage in seeking work, to accept suitable~~

1 ~~work when offered or to return to the individual's customary~~
2 ~~self-employment when so directed by the department~~ TO ACTIVELY SEEK AND
3 APPLY FOR SUITABLE WORK, TO ACCEPT AN OFFER OF SUITABLE WORK OR TO ACCEPT
4 REEMPLOYMENT AT THE SAME EMPLOYER, IF OFFERED. The disqualification shall
5 begin with the week in which the failure occurred and shall continue for
6 the duration of the individual's unemployment and until the individual has
7 earned wages in an amount equivalent to eight times the individual's
8 weekly benefit amount otherwise payable.

9 B. AN EMPLOYER SHALL REPORT TO THE DEPARTMENT WHEN AN INDIVIDUAL
10 WHO WAS PREVIOUSLY EMPLOYED WITH THAT EMPLOYER DOES ANY OF THE FOLLOWING:

- 11 1. REFUSES TO RETURN TO WORK.
- 12 2. REFUSES TO ACCEPT AN OFFER OF SUITABLE WORK.
- 13 3. FAILS, WITHOUT CAUSE, TO APPEAR FOR A SCHEDULED INTERVIEW.
- 14 4. FAILS TO RESPOND TO AN OFFER OF EMPLOYMENT.

15 C. THE DEPARTMENT SHALL ALLOW EMPLOYERS TO SUBMIT THE REPORTS
16 PURSUANT TO SUBSECTION B OF THIS SECTION DIGITALLY OR THROUGH EMAIL AND
17 SHALL CONDUCT AN INDEPENDENT REVIEW OF EACH REPORT TO DETERMINE WHETHER AN
18 INDIVIDUAL SHOULD BE DISQUALIFIED FROM RECEIVING BENEFITS.

19 ~~B.~~ D. In determining whether ~~or not~~ work is suitable for an
20 individual:

21 1. During the first four weeks of a benefit period, the department
22 shall consider the degree of risk involved to the individual's health,
23 safety and morals, the individual's physical fitness and prior training,
24 the individual's experience and prior earnings, the individual's length of
25 unemployment and prospects for securing local work in the individual's
26 customary occupation and the distance of the available work from the
27 individual's residence.

28 2. After the first four weeks of a benefit period, the department
29 shall consider any employment offer that pays one hundred twenty percent
30 of the individual's weekly benefit amount to be suitable work.

31 ~~C.~~ E. Notwithstanding any other provisions of this chapter, work
32 shall not be deemed suitable and benefits shall not be denied under this
33 chapter to an otherwise eligible individual for refusing to accept new
34 work under any of the following conditions:

35 1. The position offered is vacant due directly to a strike, lockout
36 or other labor dispute.

37 2. The wages, hours or other conditions of the work offered are
38 substantially less favorable to the individual than those prevailing for
39 similar work in the locality.

40 3. As a condition of being employed, the individual would be
41 required to join a company union or to resign from or refrain from joining
42 a bona fide labor organization.

43 ~~D.~~ F. An individual is considered to have refused an offer of
44 suitable work under subsection A of this section if an offer of work is
45 withdrawn by an employer after an individual either:

1 1. Tests positive for drugs after a drug test given pursuant to
2 chapter 2, article 14 of this title by or on behalf of a prospective
3 employer as a condition of an offer of employment.

4 2. Refuses, without good cause, to submit to a drug test that is
5 required by a prospective employer as a condition of an offer of
6 employment.