

**SUBSTITUTE FOR
HOUSE BILL NO. 5553**

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending sections 32 and 33 (MCL 421.32 and 421.33), section 32
as amended by 2020 PA 258 and section 33 as amended by 2011 PA 269,
and by adding section 32g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32. (a) Claims for benefits shall be made pursuant to
2 regulations prescribed by the unemployment agency. The unemployment
3 agency shall designate representatives who shall ~~promptly~~ examine
4 claims and make a determination on the facts **within the time period**
5 **prescribed in section 32g**. The unemployment agency may establish
6 rules providing for the examination of claims, the determination of
7 the validity of the claims, and the amount and duration of benefits



1 to be paid. The claimant and other interested parties shall be
2 promptly notified of the determination and the reasons for the
3 determination.

4 (b) The unemployment agency shall mail to the claimant, to
5 each base period employer or employing unit, and to the separating
6 employer or employing unit, a monetary determination. The monetary
7 determination shall notify each of these employers or employing
8 units that the claimant has filed an application for benefits and
9 of the amount the claimant reported as earned with the separating
10 employer or employing unit, and shall state the name of each
11 employer or employing unit in the base period and the name of the
12 separating employer or employing unit. The monetary determination
13 shall also state the claimant's weekly benefit rate, the amount of
14 base period wages paid by each base period employer, the maximum
15 benefit amount that could be charged to each employer's account or
16 experience account, and the reason for separation reported by the
17 claimant. The monetary determination shall also state whether the
18 claimant is monetarily eligible to receive unemployment benefits.
19 Except for separations under section 29(1)(a), no further
20 reconsideration of a separation from any base period employer will
21 be made unless the base period employer notifies the unemployment
22 agency of a possible disqualifying separation within 30 days of the
23 separation in accordance with this subsection. Charges to the
24 employer and payments to the claimant shall be as described in
25 section 20(a). New, additional, or corrected information received
26 by the unemployment agency more than 10 days after mailing the
27 monetary determination shall be considered a request for
28 reconsideration by the employer of the monetary determination and
29 shall be reviewed as provided in section 32a.



1 (c) For the purpose of determining a claimant's nonmonetary
 2 eligibility and qualification for benefits, if the claimant's most
 3 recent base period or benefit year separation was for a reason
 4 other than the lack of work, then a determination shall be issued
 5 concerning that separation to the claimant and to the separating
 6 employer. If a claimant is not disqualified based on his or her
 7 most recent separation from employment and has satisfied the
 8 requirements of section 29, the unemployment agency shall issue a
 9 nonmonetary determination as to that separation only. If a claimant
 10 is not disqualified based on his or her most recent separation from
 11 employment and has not satisfied the requirements of section 29,
 12 the unemployment agency shall issue 1 or more nonmonetary
 13 determinations necessary to establish the claimant's qualification
 14 for benefits based on any prior separation in inverse chronological
 15 order. The unemployment agency shall consider all base period
 16 separations involving disqualifications under section 29(1) (h),
 17 (i), (j), (k), (m), or (n) in determining a claimant's nonmonetary
 18 eligibility and qualification for benefits. An employer may
 19 designate in writing to the unemployment agency an individual or
 20 another employer or an employing unit to receive any notice
 21 required to be given by the unemployment agency to that employer or
 22 to represent that employer in any proceeding before the
 23 unemployment agency as provided in section 31. Notwithstanding any
 24 other provision of this act, beginning May 1, 2020, and until ~~the~~
 25 ~~effective date of the amendatory act that added this subsection,~~
 26 **October 20, 2020**, in determining a claimant's nonmonetary
 27 eligibility to qualify for benefits, the unemployment agency shall
 28 not issue a determination with respect to the claimant's separation
 29 from a base period or benefit year employer other than the



1 separating employer, and the unemployment agency shall consider the
2 claimant to have satisfied the requirements of section 29(2) and
3 (3).

4 (d) If the unemployment agency requests additional monetary or
5 nonmonetary information from an employer or employing unit and the
6 unemployment agency fails to receive a written response from the
7 employer or employing unit within 10 calendar days after the date
8 of mailing the request for information, the unemployment agency
9 shall make a determination based upon the available information at
10 the time the determination is made. Charges to the employer and
11 payments to the claimant shall be as described in section 20(a).

12 (e) The claimant or interested party may file an application
13 with an office of the unemployment agency for a redetermination in
14 accordance with section 32a.

15 (f) The issuance of each benefit check shall be considered a
16 determination by the unemployment agency that the claimant
17 receiving the check was covered during the compensable period, and
18 eligible and qualified for benefits. A chargeable employer, upon
19 receipt of a listing of the check as provided in section 21(a), may
20 protest by requesting a redetermination of the claimant's
21 eligibility or qualification as to that period and a determination
22 as to later weeks and benefits still unpaid that are affected by
23 the protest. Upon receipt of the protest or request, the
24 unemployment agency shall investigate and redetermine whether the
25 claimant is eligible and qualified as to that period. If, upon the
26 redetermination, the claimant is found ineligible or not qualified,
27 the unemployment agency shall proceed as described in section 62.
28 In addition, the unemployment agency shall investigate and
29 determine whether the claimant obtained benefits for 1 or more



1 preceding weeks within the series of consecutive weeks that
2 includes the week covered by the redetermination and, if so, shall
3 proceed as described in section 62 as to those weeks.

4 Notwithstanding any other provision of this act, for benefits
5 charged after March 15, 2020 but before April 1, 2021, an employer
6 has 1 year after the date a benefit payment is charged against the
7 employer's account to protest that charge.

8 (g) If a claimant commences to file continued claims through a
9 different state claim office in this state or elsewhere, the
10 unemployment agency promptly shall issue written notice of that
11 fact to the chargeable employer.

12 (h) If a claimant refuses an offer of work, or fails to apply
13 for work of which the claimant has been notified, as provided in
14 section 29(1)(c) or (e), the unemployment agency shall promptly
15 make a written determination as to whether or not the refusal or
16 failure requires disqualification under section 29. Notice of the
17 determination, specifying the name and address of the employing
18 unit offering or giving notice of the work and of the chargeable
19 employer, shall be sent to the claimant, the employing unit
20 offering or giving notice of the work, and the chargeable employer.

21 (i) The unemployment agency shall issue a notification to the
22 claimant of claimant rights and responsibilities within 2 weeks
23 after the initial benefit payment on a claim and 6 months after the
24 initial benefit payment on the claim. If the claimant selected a
25 preferred form of communication, the notification must be conveyed
26 by that form. Issuing the notification must not delay or interfere
27 with the claimant's benefit payment. The notification must contain
28 clear and understandable information pertaining to all of the
29 following:



1 (i) Determinations as provided in section 62.

2 (ii) Penalties and other sanctions as provided in this act.

3 (iii) Legal right to protest the determination and the right to
4 appeal through the administrative hearing system.

5 (iv) Other information needed to understand and comply with
6 agency rules and regulations not specified in this section.

7 **Sec. 32g. (1) Notwithstanding any other provision of this act,**
8 **and except as otherwise provided in subsection (2), the**
9 **unemployment agency shall examine a claim for benefits and make a**
10 **determination on the facts not later than 15 calendar days after it**
11 **receives the claim for benefits.**

12 (2) For a claim for benefits received during an exigent
13 period, the unemployment agency shall examine the claim for
14 benefits and make a determination on the facts not later than 20
15 calendar days after it receives the claim for benefits.

16 (3) If the unemployment agency is unable to make a
17 determination within the time period prescribed in subsection (1)
18 or (2) because the claimant or employer did not provide the
19 unemployment agency with the necessary information as required
20 under this act, the unemployment agency shall immediately notify
21 the claimant that it was unable to make a determination and of the
22 reasons why it was unable to make a determination.

23 (4) As used in this section:

24 (a) "Exigent period" means a group of 1 or more consecutive
25 calendar weeks that immediately follows a measuring week if the
26 total number of claims for benefits received by the unemployment
27 agency in each calendar week in the group is at least 50% greater
28 than the total number of claims for benefits received by the
29 unemployment agency in the measuring week.



1 (b) "Measuring week" means a calendar week in which the total
2 number of claims for benefits received by the unemployment agency
3 is less than 50% of the total number of claims for benefits
4 received by the unemployment agency in the immediately following
5 calendar week.

6 Sec. 33. (1) An appeal from a redetermination issued by the
7 agency in accordance with section 32a or a matter transferred for
8 hearing and decision in accordance with section 32a shall be
9 referred to the Michigan administrative hearing system for
10 assignment to an administrative law judge. If the agency transfers
11 a matter, or an interested party requests a hearing before an
12 administrative law judge on a redetermination, all matters
13 pertinent to the claimant's benefit rights or to the liability of
14 the employing unit under this act shall be referred to the
15 administrative law judge. The administrative law judge shall afford
16 all interested parties a reasonable opportunity for a fair hearing
17 and, unless the appeal is withdrawn, the administrative law judge
18 shall decide the rights of the interested parties and shall notify
19 the interested parties of the decision, setting forth the findings
20 of fact upon which the decision is based, together with the reasons
21 for the decision. With respect to an appeal from a denial of
22 redetermination, if the administrative law judge finds that there
23 was good cause for the issuance of a redetermination, the denial
24 shall be a redetermination affirming the determination and the
25 appeal from the denial shall be an appeal from that affirmance.
26 Unless an interested party would be unduly prejudiced, an
27 administrative law judge may consolidate cases involving the same
28 or substantially similar evidence or issues, hear the consolidated
29 cases at the same date and time, create a single record of



1 proceedings, and consider evidence introduced in 1 of those cases
2 in the other cases. If the appellant fails to appear or prosecute
3 the appeal, the administrative law judge may dismiss the
4 proceedings or take other action considered advisable. An
5 administrative law judge may, either upon application for rehearing
6 by an interested party or on his or her own motion, proceed to
7 rehear, affirm, modify, set aside, or reverse a prior decision on
8 the basis of the evidence previously submitted in the case, or on
9 the basis of additional evidence. The application or motion shall
10 be made within 30 days after the date of mailing of the decision.
11 The administrative law judge may, for good cause, reopen and review
12 a prior decision and issue a new decision after the 30-day appeal
13 period has expired. A request for review shall be made within 1
14 year after the date of mailing of the prior decision. An
15 administrative law judge shall not participate in a case in which
16 he or she has a direct or indirect interest.

17 (2) Within 30 days after the mailing of a copy of a decision
18 of the administrative law judge or of a denial of a motion for
19 rehearing, an interested party may file an appeal to the Michigan
20 compensation appellate commission, and unless such an appeal is
21 filed, the decision or denial by the administrative law judge is
22 final.

23 (3) **When an administrative law judge provides notice of a**
24 **hearing to the interested parties in a matter, the administrative**
25 **law judge shall also provide to the interested parties the items**
26 **the administrative law judge received under section 32e regarding**
27 **the matter. If the administrative law judge receives a new item or**
28 **an updated item, the administrative law judge shall immediately**
29 **provide the new item or updated item to all interested parties.**



1 Enacting section 1. This amendatory act does not take effect
2 unless House Bill No. 5554 of the 101st Legislature is enacted into
3 law.

