

1 AN ACT relating to unemployment insurance and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 341.350 is amended to read as follows:

4 An unemployed worker shall, except as provided in KRS 341.360 and 341.370, be
5 eligible for benefits with respect to any week of unemployment only if:

6 (1) He or she has made a claim for benefits;

7 (2) For an initial claim made on or after January 1, 2012, he or she has served a waiting
8 period of one (1) week, during which he or she has not received benefits. The
9 waiting week period shall be the first compensable week of an initial claim for
10 benefits for which he or she is eligible and qualified to receive benefits under this
11 chapter. A waiting week period shall be required for each benefit year, whether or
12 not consecutive. No more than one (1) waiting week period shall be required in any
13 benefit year. The waiting week shall become compensable once the remaining
14 balance on the claim is equal to or less than the compensable amount for the
15 waiting week;

16 (3) (a) He or she has registered for work with respect to such week in accordance
17 with administrative regulations promulgated by the secretary;

18 (b) He or she participates in reemployment services, such as job search assistance
19 services, if pursuant to a profiling system established by the secretary, he or
20 she has been determined to be likely to exhaust regular benefits unless:

21 1. The claimant has completed the services to which he or she is referred;
22 or

23 2. There is justifiable cause for the claimant's failure to participate in the
24 services. For the purpose of this section, "justifiable cause" shall be
25 interpreted to mean what a reasonable person would do in like
26 circumstances; and

27 (c) He or she engages in at least five (5) verifiable work search activities during

1 each week in which he or she claims eligibility. At least three (3) of these
2 activities each week shall consist of formally submitting an application for
3 employment or interviewing for employment. "Work search activities"
4 includes any of the following:

- 5 1. Formally submitting an application for employment, either in person or
6 online;
- 7 2. Interviewing for employment virtually, in person, or online;
- 8 3. Job shadowing;
- 9 4. Attending a job fair or networking event hosted by state or local
10 government or a business organization;
- 11 5. Participating in a job search skills workshop or seminar; and
- 12 6. Participating in official Kentucky Career Center or partner programs
13 related to employment or the search for employment;

14 (4) He or she is physically and mentally able to work;

15 (5) He or she is available for suitable work, and making such reasonable effort to
16 obtain work as might be expected of a prudent person under like circumstances;

17 (6) His or her base-period wages in that calendar quarter of his or her base period in
18 which such wages were highest are equal to at least one thousand five hundred
19 dollars (\$1,500), and his or her total base-period wages are not less than one and
20 one-half (1-1/2) times the base-period wages paid to him or her in such quarter and
21 he or she was paid base-period wages in the last six (6) months of his or her base
22 period equal to at least eight (8) times his or her weekly benefit rate with a
23 minimum of one thousand five hundred dollars (\$1,500) earned outside the high
24 quarter. Beginning on January 1, 2020, and continuing on January 1 in even-
25 numbered years thereafter, the secretary shall adjust the minimum base-period
26 wages at a rate that is directly proportional to the average percentage change in the
27 Consumer Price Index for All Urban Consumers (CPI-U) for the two (2) previous

1 calendar years;

2 (7) An otherwise eligible worker shall not be denied benefits under subsection (5) of
3 this section or because of his or her failure to actively seek work under subsection
4 (3) of this section, nor disqualified under paragraph (a) of subsection (1) of KRS
5 341.370:

6 (a) With respect to any week he or she is certified as being enrolled and making
7 satisfactory progress in an approved job training or certification program; ~~or~~

8 (b) If he or she has verified definite return-to-work or recall-to-work prospects
9 within a period of sixteen (16) weeks from the date of filing of the initial or
10 reopened claim; or

11 (c) If he or she has a definite return-to-work or recall-to-work prospect no
12 longer than one (1) year from the filing date of the initial or reopened claim
13 which the secretary has evaluated and confirmed in writing to be a bona
14 fide return-to-work or recall-to-work prospect. As used in this paragraph,
15 "bona fide return-to-work or recall-to-work prospect" means prospective
16 employment which:

17 1. Would allow an employee to return to employment with his or her
18 former employer with a break in service not to exceed one (1) year;

19 and

20 2. Is attested to in a letter from the employer to the secretary which:

21 a. States the employer's reasons for the period of nonemployment;

22 b. Identifies the affected worker or workers by name;

23 c. Identifies each affected worker's expected return-to-work or
24 recall-to-work date; and

25 d. Authorizes the employer's reserve account to be charged for
26 benefits payable to the affected employee or employees.

27 The employer shall notify the secretary of any changes to the plans or

1 *circumstances set forth in the letter. The secretary shall not confirm a bona*
2 *fide return-to-work or recall-to-work prospect if the secretary has grounds*
3 *to believe that such confirmation is contrary to federal law or could*
4 *jeopardize the Commonwealth's compliance with federal law. The secretary*
5 *shall rescind any previous confirmation of a bona fide return-to-work or*
6 *recall-to-work prospect if the secretary has grounds to believe that it is*
7 *contrary to federal law or could jeopardize the Commonwealth's compliance*
8 *with federal law.*

9 (8) Notwithstanding any other provisions of this chapter, no otherwise eligible worker
10 shall be denied benefits for any week because he or she is in training approved
11 under 19 U.S.C. sec. 2296 (Section 236(a)(1) of the Trade Act of 1974), nor shall
12 such worker be denied benefits by reason of leaving work to enter such training
13 provided such work is not suitable employment, or because of the application to any
14 such week in training of provisions in this law (or any applicable federal
15 unemployment compensation law) relating to availability for work, active search
16 for work, or refusal to accept work. For purpose of this subsection, the term
17 "suitable employment" shall mean employment of a substantially equal or higher
18 skill level than the worker's past adversely affected employment as defined in 19
19 U.S.C. sec. 2319 (Trade Act of 1974), and wages for such work are not less than
20 eighty percent (80%) of the workers' average weekly wage as determined for
21 purposes of the Trade Act of 1974.

22 (9) The foregoing eligibility requirements and the conditions of benefit
23 disqualifications imposed by KRS 341.370 shall be strictly construed. Nothing in
24 this section, excepting subsection (6) of this section, nor in KRS 341.360 or
25 341.370 shall affect the establishment of a "benefit year."

26 (10) The cabinet shall conduct randomized weekly audits of a number determined by the
27 secretary as sufficient to evaluate compliance with the work search activity

1 requirements of this section, and shall submit an annual report to the Governor and
2 the Interim Joint Committee on Economic Development and Workforce Investment
3 detailing:

- 4 (a) The percentage of audited claimants that failed to comply with the work
5 search activity requirement outlined in this section;
- 6 (b) The work search activities that were most commonly engaged in by audited
7 claimants;
- 8 (c) Recommendations to make the work search activity requirement more
9 effective in assisting claimants in finding employment;
- 10 (d) The number of claims audited each week and the total number of claims
11 audited during the reporting period;
- 12 (e) The percentage of total claims audited each week and percentage of total
13 claims audited during the reporting period; and
- 14 (f) A summary of the methodology used to conduct randomized auditing.

15 (11) The secretary shall promulgate regulations and standards for the verification of
16 claimants' work search activities and the methods by which claimants shall submit
17 work search activities and any associated documentation required by the secretary
18 for verification.

19 ➔Section 2. KRS 341.416 is amended to read as follows:

20 (1) Any person suspected of fraudulently obtaining or attempting to obtain any benefit
21 under this chapter, or under any unemployment insurance law of any other state or
22 the federal government, shall be referred by the cabinet to ~~[the Kentucky Justice~~
23 ~~and Public Safety Cabinet,]~~the appropriate county attorney or Commonwealth's
24 attorney **and the United States Department of Labor**~~[, and, if applicable, the~~
25 ~~United States Department of Justice]~~. The referral shall include:

- 26 (a) The name of the applicable employer, employee, claimant, and name used in
27 the suspected fraud;

1 (b) Any contact information the cabinet possesses for the suspected fraudulent
2 actor; and

3 (c) Any information filed with or reported to the cabinet regarding the suspected
4 fraud.

5 (2) The cabinet shall make the referral under subsection (1) of this section no later than
6 thirty (30) days after determining suspected fraud has occurred.

7 (3) A legal disposition finding the employee or contractor guilty under the evidentiary
8 standard and burden of proof pursuant to KRS 500.070 shall be required to
9 terminate employment under this section.

10 ➔Section 3. Whereas it is vital to address return-to-work or recall-to-work
11 prospects and give employers and employees necessary guidance regarding these
12 prospects, an emergency is declared to exist, and this Act takes effect upon its passage
13 and approval by the Governor or upon its otherwise becoming a law.