HB 1199

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1199 (Delegate Carr)
Economic Matters

Unemployment Insurance - Benefits - Backdated Claims

This bill allows an initial claim for unemployment insurance benefits to be backdated up to six weeks under certain conditions. The claimant must have become eligible for benefits within six weeks preceding the date the initial claim was filed. A claim cannot be backdated to provide extended or additional benefits or for an individual who has applied for unemployment benefits within five years prior to filing a claim.

Fiscal Summary

State Effect: State expenditures to reimburse the Unemployment Insurance Trust Fund (UITF) increase by $5,100 in FY 2010 and $12,700 in FY 2014. No effect on revenues.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenue	0	$0	$0	$0	$0
GF/SF/FF Exp.	5,100	11,800	12,300	12,400	12,700
Net Effect	$5,100	$11,800	$12,300	$12,400	$12,700

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Unemployment Insurance Trust Fund: UITF expenditures increase by $858,300 in FY 2010, increasing annually as a result of backdated benefits paid and database expenses. Revenues increase by approximately $42,200 in FY 2010. Future revenues reflect private-sector employer charge backs; quarterly reimbursement by the State, local governments, and nonprofit entities; increases in wages; and annualization.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
UITF Rev.	$42,200	$247,700	$432,700	$614,200	$649,000
UITF Exp.	858,300	1,019,300	1,020,900	1,033,500	1,064,700
Net Effect	($816,100)	($771,600)	($588,200)	($419,300)	($415,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local jurisdictional expenditures to reimburse the trust fund increase by $6,700 in FY 2010 and $16,700 in FY 2014.

Small Business Effect: Meaningful. Small businesses are subject to increased unemployment taxes and increased employer charge backs.

Analysis

Current Law: In order to be eligible for unemployment benefits an individual must be able to work, available for work, and actively seeking work for each week in which a benefit is sought.

The Code of Maryland Regulations (COMAR 09.32.02.03) specifies situations where a claim for unemployment benefits may be backdated:

- a claim may be backdated up to 30 days if a claimant who has been working part-time requests partial benefits;
- if there is a clerical error attributed to the Department of Labor, Licensing and Regulation (DLLR);
- if severe weather conditions exist, as determined by the Secretary of Labor, Licensing, and Regulation;
- if the office to which the claimant is instructed to report is closed for a reason other than that day is not a working day.

Additionally, as advised by DLLR, there may be isolated reasons that are evaluated on an individual basis. In all of these circumstances, a claim is not backdated unless the claimant proves to be eligible for the claim. Due to record claim levels, claims have been backdated if the claimant is unable to file a claim due to the telephone queue being full. DLLR also may backdate a claim if the claimant was illegally asked to waive, release, or commute his or her claim for benefits by the employer or other outside party. Another situation where claims are backdated includes instances where the claimant has filed a claim against the wrong state. The proper Maryland claim can be backdated to match the original claim effective date.

Background: Unemployment insurance (UI) provides temporary, partial wage replacement benefits to persons who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for the unemployment insurance program. Funding for the program is provided by employers through unemployment insurance taxes paid to both the federal government for administrative and other expenses and to the states for deposit in the unemployment insurance trust funds. Using federal tax revenues, the program is administered pursuant to state law by state employees. Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Benefits paid from the UITF are based on the amount of money that the employee earned during the base period (the first four of the last five completed calendar quarters prior to the date the employee filed a claim). The weekly benefit amount provided by the Maryland Unemployment Insurance Law ranges from $25 to a maximum of $380. The maximum duration that weekly benefits may be paid is 26 weeks. Through federal tax revenues, a 20-week extension of benefits is currently in effect for eligible claimants who have exhausted their first 26 weeks of benefits.

The unemployment insurance program is financed by the Federal Unemployment Insurance Administration through employer taxes. The federal tax is 6.2% of the first $7,000 in wages paid to each employee. Employers receive credit of up to 5.4% for the taxes they pay under state unemployment compensation laws. The net tax (0.8%) collected by the federal government is used to finance state and federal administrative costs. Funds are distributed to states based on each state's claim load. The Maryland program is administered by the Office of Unemployment Insurance in DLLR and funds are deposited into the Maryland Unemployment Insurance Trust Fund.

All private business employers and nonprofit organizations employing one or more persons, at any time, are subject to the Maryland Unemployment Insurance Law. Each employer is assigned a particular tax rate based on its experience with unemployment, in relation to the experience of other employers, and the fund balance of the Maryland UITF from the preceding September. Taxable wages are defined as the first $8,500 earned by each employee (both full- and part-time employees) in a calendar year.

State and local governments and some nonprofit organizations reimburse UITF dollar for dollar in lieu of paying State and federal UI taxes. Nonprofits post a certain percentage of collateral specified in law when choosing the reimbursement option.

State Fiscal Effect: UI benefits are chargeable to the State and reimbursed on a quarterly basis. Approximately 1.3% of UI benefits are charged to the State. In fiscal 2010, payments for two quarters are collected. Fiscal 2011 is the first fiscal year in which four quarters of increased benefits under this bill are reflected. Thus, total State expenditures (general funds, special funds, and federal funds) increase by $5,132 in fiscal 2010 and $11,813 in fiscal 2011.

Unemployment Insurance Trust Fund Effect: The fiscal impact of allowing UI benefit claims to be backdated is dependent on a number of factors; the number of eligible claimants, the number of weeks which the claimant seeks to backdate the claims for, and the wage base determining the benefit are the major components of this estimate.

As shown in **Exhibit 1**, new UI weekly benefits established represents the number of people who become unemployed, are eligible for benefits, and begin receiving benefits. As shown in the exhibit, the second and third quarters of 2008 saw a significant increase in new benefits when compared to prior years. In the final quarter of 2008 the increase in new benefits established was even more dramatic – an increase of 61% when compared to the same period in the prior year. This trend continues throughout the first two months of 2009.

Exhibit 1
New Weekly UI Benefits Established

Calendar Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
2004	37,131	22,516	24,270	25,287	109,204
2005	34,269	21,049	22,203	21,866	99,387
2006	29,934	20,043	22,947	22,991	95,915
2007	33,591	20,102	23,347	28,614	105,654
2008	36,097	26,820	30,558	46,066	139,541
% Difference 2007-2008	**7%**	**33%**	**31%**	**61%**	**32%**

Source: U.S. Bureau of Labor and Statistics

UITF expenditures increase by an estimated $858,335 in fiscal 2010, reflecting the bill's October 1 effective date or three quarters of UI benefits paid and additional database expenses. In fiscal 2014 UITF expenditures increase by $1.1 million due to an increase in benefits paid due to backdated claims and ongoing database expenses. The following facts/assumptions were used in determining the increase in UITF expenditures:

- the total number of individuals receiving new benefits uses 2008 actual claim data as baseline, and assumes that the number of weekly UI benefits established is 20% higher than the baseline in fiscal 2010 and 5% higher than the baseline in fiscal 2011. Fiscal 2012 is 2% higher than the baseline, with claim levels returning to the baseline in fiscal 2013;

- 0.84% of UI benefit claims established were backdated in fiscal 2008. The ratio of backdated claims remains constant in future years;
- the average backdated claim provides an extra three weeks of benefit payments;
- the projected weekly benefit from fiscal 2010 through 2014 increases by 3% a year as follows: 2010 = $303; 2011 = $312; 2012 = $321; 2013 = $331; 2014 = 341;
- the amount of benefit charged back to private-sector employers is 64.1% payable over the following three years;
- the State, local governments, and nonprofits reimburse the trust fund each year, payable on a quarterly basis; and
- the requirement that a claim not be backdated if the claimant has applied for benefits in the previous five years will require additional database storage to allow claims administrators to determine eligibility, as the current database only stores benefits paid in the prior four years. The additional cost for batch and other data processing and tape/disk utilization and storage is expected to be $68,900 and increases by 3% annually.

Trust Fund Revenues

Of the amount paid on behalf of private employers in fiscal 2010, $451,901 (or 64.1% of benefits paid) is charged back to one or more previous employers over a three-year period beginning the year following benefits payment. The $253,093 that cannot be charged back to private-sector employers is, ultimately, recovered through premiums paid by all employers. Payments made for State, local government, and nonprofit employers are charged in the same year and reimbursement is made on a quarterly basis. In fiscal 2010, payments for two quarters are collected; annually thereafter payments for one quarter of the prior year and three quarters of the current year are collected. Thus, UITF revenues increase by $42,236 in fiscal 2010, $247,710 in fiscal 2011, and increase to $648,967 in fiscal 2014.

Local Fiscal Effect: UI benefits are chargeable to the local governments and reimbursed on a quarterly basis. Approximately 1.7% of UI benefits are charged to local governments. In the first year, payments for only two quarters are collected. Thus, local jurisdictional expenditures increase by $6,710 in fiscal 2010 and $16,659 in fiscal 2014.

Small Business Effect: Employer charge backs for small businesses increase beginning in fiscal 2010. In addition, unemployment insurance taxes may increase, depending on the unemployment history of the actual employer. Any increase in benefits paid will result in an increase in an employer's unemployment insurance tax rate.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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