Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 283 (Delegate Hough, *et al.*)
Economic Matters

Unemployment Insurance - Appeal of Benefit Determination - Discovery of Financial Crime

This bill allows an employer to file an appeal of an unemployment insurance (UI) benefit determination with the Lower Appeals Division of the Department of Labor, Licensing, and Regulation (DLLR) within 15 days of discovering evidence that a former employee who is receiving UI benefits committed a financial crime against the employer while employed.

Fiscal Summary

State Effect: DLLR can implement the bill with existing budgeted resources. Potential significant loss of federal UI revenues if a determination is made that Maryland law is out of conformity with federal UI law, as discussed below.

Unemployment Insurance Trust Fund (UITF) Effect: The bill is expected to apply to a very limited number of UI claimants. The impact on UITF is insignificant.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: An individual who files a claim for benefits or an employer entitled to notice of a determination or redetermination of a claim may file an appeal with the Lower Appeals Division within 15 days after notice is mailed to the claimant or employer.

The Secretary may be a party to an appeal filed by a claimant or employing unit with the Lower Appeals Division.

Background: A claimant for UI benefits who has been denied benefits may file an appeal of that denial to the Lower Appeals Division. An employer may also appeal a determination granting benefits to a former employee. If an appeal is filed, a hearing will be held by a hearing examiner, who will then issue a written decision.

In claims before the Lower Appeals Division, a hearing examiner must (1) give parties a reasonable opportunity for a fair hearing; (2) make findings of fact and conclusions of law; and (3) affirm, modify, or reverse a determination or redetermination. Either party may file an appeal with the Board of Appeals within 15 days after notice of the decision is mailed.

When an individual files a claim, DLLR advises it asks the claimant for the reason for the separation of employment and sends a separation notice to all employers for whom the claimant was employed within the last 18 months. In determining whether a claimant who is otherwise eligible will receive benefits or is disqualified, DLLR establishes the reason for the separation of employment – the withdrawal standard – as required by the Federal Unemployment Tax Act and implemented by state unemployment insurance laws and regulations. DLLR typically determines that a claimant who committed a financial crime against his or her former employer committed gross or aggravated misconduct and is disqualified from receiving benefits until the individual is reemployed and earning specified wages but only if the financial crime was a factor in the separation from employment. If, at a later date, it is determined that the former employee may have committed a financial or other crime against the employer, the employer's recourse is to file criminal charges. The later discovery of such a crime does not change the reason for the separation that occurred earlier.

State Fiscal Effect: The administration of Maryland's UI program is 100% federally funded. The U.S. Department of Labor has notified DLLR that HB 283 would place Maryland out of conformity with federal law. If Maryland were found to be out of conformity with federal law, administrative funding provided by the federal government could be cut, leading to a loss of about $55 million in administrative funds.

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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