HOUSE BILL 44

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Patricia Roybal Caballero

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; AMENDING PROVISIONS OF THE UNEMPLOYMENT COMPENSATION LAW TO ELIMINATE CERTAIN RESTRICTIONS ON ELIGIBILITY FOR BENEFITS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 51-1-7 NMSA 1978 (being Laws 2003, Chapter 47, Section 10, as amended) is amended to read:

"51-1-7. DISQUALIFICATION FOR BENEFITS.--

A. An individual shall be disqualified for and shall not be eligible to receive benefits:

(1) if it is determined by the division that the individual left employment voluntarily without good cause in connection with the employment. No individual shall receive benefits until the division has contacted the former employer
and determined whether the individual left the employment voluntarily; provided, however, that a person shall not be denied benefits under this paragraph:

(a) solely on the basis of pregnancy or the termination of pregnancy;

(b) because of domestic abuse evidenced by medical documentation, legal documentation or a sworn statement from the claimant; or

(c) if the person voluntarily left work to relocate because of a spouse, who is in the military service of the United States or the New Mexico national guard, receiving permanent change of station orders, activation orders or unit deployment orders;

(2) if it is determined by the division that the individual has been discharged for misconduct connected with the individual's employment; or

(3) if it is determined by the division that the individual has failed without good cause either to apply for available, suitable work when so directed or referred by the division or to accept suitable work when offered.

B. In determining whether or not any work is suitable for an individual pursuant to Paragraph (3) of Subsection A of this section, the division shall consider the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness, prior training,
approved training, experience, prior earnings, length of
unemployment and prospects for securing local work in the
individual's customary occupation and the distance of available
work from the individual's residence. Notwithstanding any
other provisions of the Unemployment Compensation Law, no work
shall be deemed suitable and benefits shall not be denied under
the Unemployment Compensation Law to any otherwise eligible
individual for refusing to accept new work under any of the
following conditions:

(1) if the position offered is vacant due
directly to a strike, lockout or other labor dispute;

(2) if the wages, hours or other conditions of
the work offered are substantially less favorable to the
individual than those prevailing for similar work in the
locality; or

(3) if, as a condition of being employed, the
individual would be required to join a company union or to
resign from or refrain from joining any bona fide labor
organizations.

C. An individual shall be disqualified for, and
shall not be eligible to receive, benefits for any week with
respect to which the division finds that the individual's
unemployment is due to a labor dispute at the factory,
establishment or other premises at which the individual is or
was last employed; provided that this subsection shall not
apply if it is shown to the satisfaction of the division that:

(1) the individual is not participating in or directly interested in the labor dispute; and

(2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises at which the labor dispute occurs, any of whom are participating in or directly interested in the dispute; provided that if in any case separate branches of work that are commonly conducted in separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment or other premises.

D. An individual shall be disqualified for, and shall not be eligible to receive, benefits for any week with respect to which, or a part of which, the individual has received or is seeking, through any agency other than the division, unemployment benefits under an unemployment compensation law of another state or of the United States; provided that if the appropriate agency of such other state or of the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

E. A disqualification pursuant to Paragraph (1) or
(2) of Subsection A of this section shall continue for the
duration of the individual's unemployment and until the
individual has earned wages in bona fide employment other than
self-employment, as provided by rule of the secretary, in an
amount equivalent to five times the individual's weekly benefit
otherwise payable. A disqualification pursuant to Paragraph
(3) of Subsection A of this section shall include the week the
failure occurred and shall continue for the duration of the
individual's unemployment and until the individual has earned
wages in bona fide employment other than self-employment, as
provided by rule of the secretary, in an amount equivalent to
five times the individual's weekly benefit amount otherwise
payable; provided that no more than one such disqualification
shall be imposed upon an individual for failure to apply for or
accept the same position, or a similar position, with the same
employer, except upon a determination by the division of
disqualification pursuant to Subsection C of this section.

F. Effective until January 1, 2023, when a federal
or state public health emergency is declared pursuant to the
Public Health Emergency Response Act and for thirty days after
the expiration of the emergency declaration, an individual's
absence from work shall be presumed involuntary and for good
cause and an individual shall not be denied benefits when the
division finds that the absence from work was due to:

(1) an individual's exposure to or diagnosis

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with a threatening communicable disease that is the subject of
the emergency declaration;

(2) an individual's need to provide care to a
family member diagnosed with a threatening communicable disease
that is the subject of the emergency declaration;

(3) an underlying medical condition that makes
an individual susceptible to a threatening communicable disease
that is the subject of the emergency declaration;

(4) instructions from an individual's employer
to not come to the employer's place of business due to an
outbreak of a threatening communicable disease that is the
subject of the declaration; provided that working remotely is
impossible; or

(5) an individual's usual child care being
unavailable; provided that the individual made a good faith
effort to arrange alternative child care and working remotely
is impossible.

G. An individual shall be disqualified for and
ineligible to receive benefits for any week with respect to
which, or part of which, the individual has received or has
applied for emergency paid sick leave or emergency paid family
leave benefits from other state or federal programs providing
compensation to individuals unable to work due to the declared
public health emergency.

[Fr] H. As used in this section:
(1) "domestic abuse" means that term as defined in Section 40-13-2 NMSA 1978; [and]

(2) "employment" means employment by the individual's last employer as defined by rules of the secretary;

(3) "family member" means a person who is:

(a) regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom an employee stands in loco parentis or a person to whom the employee stood in loco parentis when the person was a minor;

(b) a biological, adoptive or foster parent, stepparent or legal guardian of an employee or the employee's spouse or domestic partner or a person who stood in loco parentis when the employee or the employee's spouse or domestic partner was a minor;

(c) a person to whom an employee is legally married under the laws of any state or a domestic partner of the employee;

(d) a grandparent, great-grandparent, grandchild or sibling, whether a biological, foster, adoptive or step relationship, of an employee or an employee's spouse or domestic partner; or

(e) any other individual related by blood or affinity whose close association with the employee or
employee's spouse or domestic partner is the equivalent of a family relationship; and

(4) "threatening communicable disease" means a disease that causes death or great bodily harm that passes from one person to another and for which there are no means by which the public can reasonably avoid the risk of contracting the disease. "Threatening communicable disease" does not include acquired immune deficiency syndrome or other infections caused by the human immunodeficiency virus."

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.