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New Michigan Law Changes Certain Eligibility Criteria for Unemployment Benefits

Amendments to the Michigan Employment Security Act were signed into law by Governor Rick Snyder on Monday, December 19, 2011, and became effective at that time. Notable provisions in the amendments include several changes to the eligibility criteria for unemployment benefits.

CHANGES REGARDING TYPES OF TERMINATIONS TRIGGERING BENEFITS

1. Voluntary Terminations

One set of changes clarifies that certain events constitute a voluntary termination without good cause attributable to the employer, and therefore disqualifies an employee from receiving benefits. These events are terminations due to:

- The employee being absent from work for at least three consecutive work days without contacting the employer, provided that the employer informed the employee of the contacting requirement "at the time of hire;"

- The employee negligently loses a requirement for the job.

2. Involuntary Terminations

Further, while voluntary terminations generally do not trigger a right to benefits, the amendments provide that certain terminations due to medical reasons are considered terminations attributable to the employer, and therefore presumably allow the employee to collect benefits. In order to obtain benefits in such a situation, prior to resigning or being terminated for medical reasons, the employee would need to: a) secure a medical professional's statement that continuing in the current job would be harmful to the individual's physical or mental health; b) unsuccessfully attempt to secure alternative work with the employer; and c) unsuccessfully attempt to be placed on a leave of absence with the employer which would last until the individual's mental or physical health would no longer be harmed by the current job. Terminations for medical reasons under other circumstances will likely disqualify the employee from receiving benefits.

3. Terminations Due to Spouse's Military Transfer

The law was also amended to provide benefits to employees who leave their jobs because the employee's spouse is a full-time member of the United States armed forces, provided the employee is leaving due to the spouse's reassignment to a different location.

CHANGES REDUCING CHARGES TO THE EMPLOYER'S EXPERIENCE ACCOUNT

Prior to the amendments, an employee who voluntarily terminated employment could requalify for benefits if the employee had an established benefit year in effect, obtained a new job, and left that job within 60 days. While that provision still

stands, any benefits paid will no longer be charged against the original employer's experience rating; instead, now they will be charged against the "nonchargeable benefits account."

The amendments also address the situation in which a part-time employee also works for another employer on a full-time basis. In that situation, any benefits payable attributable to the voluntary quit would also only be chargeable to the "nonchargeable benefits account" and not to the experience account of the former part-time employer.

In addition, when benefits are due to a termination arising from a spouse's military relocation, those benefits will also only be chargeable to the "nonchargeable benefits account."

CHANGES FOR EXTENDED PERIODS OF UNEMPLOYMENT

Finally, under the new law, after January 15, 2012, once an individual has received unemployment benefits for at least 10 weeks, the individual will not be able to claim that new employment opportunities are unsuitable if there is any opportunity which includes a pay rate of at least 120% of the individual's unemployment benefits. Accordingly, an individual may now be required to accept a job, even if the job is outside of the individual's training, experience, or prior pay rate.

IMPACT AND EFFECT OF CHANGES

Clearly, some of these changes will serve to reduce an employer's exposure to certain types of claims for benefits, either by disqualifying employees, reducing the impact on the employer's experience rating, or shifting the liability totally off of the employer's experience rating. However, the manner in which some of these changes will ultimately be interpreted by the Unemployment Agency and the courts, has yet to be determined. For example, it is not clear how the Agency will determine: whether job opportunities are available; whether the policy requiring contact for absences of more than three days literally must be presented "at the time of hire," or whether later notice will suffice; or if employees with other medically-related terminations are automatically disqualified from benefits.

If you have questions regarding the new law or other employment-law matters, please contact your regular Butzel Long attorney, a member of the Butzel Long Labor and Employment Law Practice, or the authors of this e-mail news alert.

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