

Submitted Remarks of Acting Deputy Secretary of Unemployment Compensation

Robert O'Brien
Department of Labor & Industry
House Labor and Industry Committee
House Bill 1014

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Chairman Kauffman, Chairman Galloway and members of the House Labor and Industry Committee, thank you for the opportunity to provide remarks on House Bill 1014.

House Bill 1014 would amend the Unemployment Compensation Law regarding eligibility for benefits following a voluntary termination of employment and would delineate specific disqualifications following involuntary termination of employment. The language is intended to limit qualification of UC benefits to reasons related to the employment and codify specific disqualifications.

The bill focuses on Section's 402 (b) and (e) which deal with specific examples of separation from employment. Section 402 of the Law, subsection (b), would be amended to require, as a condition of eligibility, that the necessitous and compelling reason for quitting must be **attributable to the employment**, including that a **work-related** disability is deemed necessitous and compelling cause to quit if the employer cannot provide suitable work. Currently, a claimant only must prove that he had a "necessitous and compelling" reason to leave employment in order to be entitled to UC benefits; the reason does not have to be attributable to the employment. This is a significant change. Attributable means resulting from, caused by, or produced by. HB 1014 would exclude from coverage claimants who, for example, left their work due to lack of transportation, lack of childcare, to follow a relocating spouse, to accept another job, due to a non-work related disability, or to care for a family member. Under current law, any disability for which the employer cannot provide suitable work can be a necessitous and compelling reason to leave employment; it does not have to be a work-related disability. This legislation would limit that to a work-related disability.

HB 1014 would generate more denials and more appeals as the standards have been narrowed.

Section 402 (b) of the proposed legislation also provides that no employee shall be ineligible under Section 402(b) where:

- the Federal Unemployment Compensation Tax Act (FUTA) requires eligibility
- the employee is a military spouse who was required to relocate due to military reassignment
- if the person reasonably believes that continued employment would jeopardize personal safety due to domestic violence, verifiable by reasonable documentation not to include a protection from abuse order or police record unless offered voluntarily.

Notably, under the current law as interpreted by Pennsylvania courts, spouses of relocated Armed Forces members and victims of domestic violence who need to leave their jobs for safety reasons would be entitled to UC benefits. HB 1014 would exclude other claimants whose spouses also had no choice but to relocate and other claimants who have valid domestic reasons for leaving employment.

Section 402(e) of the Law is amended to add subsection 402(e.2), which provides disqualification from receiving benefits following discharge for the following reasons:

- failure to follow a known workplace rule or work-related law or regulation
- deliberate damage to employer property
- theft of employer or coworker's property
- reporting to work under the influence of alcohol or illegal drugs, or consuming alcohol or using illegal drugs at work.
- threatening a coworker or supervisor with physical harm or threatening to harm the employer's interests
- disregarding a supervisor's reasonable directive
- negligent acts which indicate a substantial disregard for the employer's interests
- failure to maintain a valid license or certificate that is required for employment, unless the failure was beyond the employee's control
- two or more unjustified absences from work
- two or more failures to report off work in the manner required by the employer's policy

Under Section 402(e) of the current UC Law, a claimant is ineligible for UC benefits if his unemployment is due to "willful misconduct connected with his work." The statute does not define willful misconduct, although our courts have. This legislation designates the specific basis for disqualification listed above. Each of these bases has already been decided by our courts to constitute willful misconduct under the current law, making such a proposal superfluous. The legislation leaves intact Section 402(e), implying that Section 402(e.2) is not intended to be all-inclusive.

However, HB 1014 does not allow for a claimant to prove good cause to violate an employer's rule, directive, or call off policy; however, neither does current Section 402(e), but a good cause defense was read into it by the courts. In addition, denying benefits to claimants because of "negligence which indicates substantial disregard for the employer's interests" removes the "culpability, wrongful intent, evil design, or intent" elements required under the current definition of willful misconduct and will increase the number of claimants disqualified for negligent acts.

Finally, with regards to costs, the department anticipates a rise in appeals. At this time, the department cannot quantify if additional staff will be needed, however we do not expect any additional costs to affect the solvency of the UC Trust Fund.

Conclusion

Mr. Chairman and members of the committee, this bill is not good for the hard-working Pennsylvanian's who, due to factors outside of their control, will be denied benefits during their most vulnerable time. The department opposes HB 1014. Thank you for the opportunity to provide our remarks.