

Act No. 227
Public Acts of 2017
Approved by the Governor
December 20, 2017
Filed with the Secretary of State
December 21, 2017
EFFECTIVE DATE: July 1, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Rep. Byrd

ENROLLED HOUSE BILL No. 5167

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of this act; and to repeal all acts and parts of acts inconsistent with this act," by amending section 5a (MCL 421.5a), as amended by 1993 PA 311.

The People of the State of Michigan enact:

Sec. 5a. (1) For calendar years beginning January 1, 1994 and ending December 31, 1998, the unemployment agency shall develop and implement a program to provide, upon request, claimant and employer advocacy assistance or consultation. The purpose of the program is to provide information, consultation, and representation to claimants and employers relating to the referee or board of review appeal levels, or both.

(2) The program must be funded from the penalty and interest account in the contingent fund. If the program does not operate or the legislature fails to approve a yearly appropriation for the program in an amount at least equal to the maximum yearly expenditure for the program as provided in this subsection, then the provision of section 19(a)(5) reducing the maximum nonchargeable benefits component from 1% to 1/2 of 1% is not effective for a tax year for which the appropriation is not made or in which the program does not operate. For fiscal years beginning on and after October 1, 1994, the maximum amount of the expenditure for the program each year must not exceed \$1,500,000.00.

(3) The appropriations must be used to finance all costs connected with the program. Costs related to the representation of claimants must not exceed 60% of the maximum expenditure allowed in each fiscal year, and costs

related to the representation of employers must not exceed 40% of the maximum expenditure allowed in each fiscal year.

(4) Before an individual provides advocacy assistance services under this section, the individual must apply to the unemployment agency for approval. The unemployment agency shall develop standards for individuals providing advocacy assistance services including standards relating to knowledge of this act and the practices and procedures at the referee and board of review appeal levels. An individual who is not an attorney may provide advocacy assistance services. The unemployment agency shall develop a schedule for payment of individuals providing advocacy assistance services. Active unemployment agency or state employees shall not provide advocacy assistance services. The only active state or unemployment agency employees involved in the program shall be those supervising or coordinating the program.

(5) The unemployment agency may include in the program standards regarding the provision of advocacy assistance services in precedent setting cases, multiclaimant cases, cases without merit, or regarding other cases or factors as determined by the unemployment agency. However, to the extent that funding is available from the appropriation under subsection (2), the unemployment agency shall not withhold advocacy assistance services in cases involving fraud under section 54. If the unemployment agency makes a final determination or final redetermination or an administrative law judge, the Michigan compensation appellate commission, or a court makes a final order that an employer or claimant who received advocacy assistance services committed fraud under section 54, the unemployment agency shall make an effort to recover from the employer or claimant, respectively, an amount equal to the representation fees associated with the advocacy assistance services provided to the employer or claimant, respectively.

(6) Individuals who are approved by the unemployment agency to provide advocacy assistance services shall enter into a contract with the unemployment agency that states that the payments made pursuant to the schedule established by the unemployment agency are payment in full for all services rendered and expenses incurred and that the claimant or employer who has received the benefit of the services will not be billed for and is not liable for the cost of the services or representation provided. An individual approved by the unemployment agency to provide advocacy assistance services shall accept only the fee approved by the unemployment agency for the services and shall not accept any other fee for the services from the claimant or the employer.

(7) If a claimant or an employer receives advocacy assistance services beyond an initial consultation, the other party in the case must be immediately notified. The unemployment agency shall include in the program provisions to determine the method and the timeliness by which immediate notice must be provided. The unemployment agency shall not approve the same individual to provide advocacy assistance services for both claimants and employers. The unemployment agency shall clearly designate each individual approved to provide services under this section as representing either claimants or employers. An individual approved by the unemployment agency to provide advocacy assistance services is not entitled to payment under this section for representing the individual's own personal interests. An active state employee shall not represent a claimant or an employer under this program at the referee or board of review appeal levels. However, this subsection does not prohibit an employee of the unemployment agency from participating in a case in which the unemployment agency is an interested party or from representing the unemployment agency's interest when acting as an administrator for a federal program as required by federal law.

(8) The unemployment agency shall make an annual report to the legislature on the operation of the program. The first report under this subsection is due within 60 days after the first anniversary date of the beginning of the program. Each report under this subsection must include, but is not limited to, the following for the previous 12-month period:

- (a) Number and type of claimants served.
- (b) Number and type of employers served.
- (c) Costs to the program of the claimants served.
- (d) Costs to the program of the employers served.
- (e) An analysis of the impact of the services provided on the appeal system provided by this act.

Enacting section 1. This amendatory act takes effect July 1, 2018.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

- (a) House Bill No. 5165.
- (b) House Bill No. 5166.
- (c) House Bill No. 5168.
- (d) House Bill No. 5169.
- (e) House Bill No. 5170.
- (f) House Bill No. 5171.
- (g) House Bill No. 5172.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor