

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)
Act 1 of 1936 (Ex. Sess.)

***** 421.54f.added THIS ADDED SECTION IS EFFECTIVE MARCH 21, 2018 *****

421.54f.added Report of fraudulent claim; contents; submission of affidavit by affected individual; duties of unemployment agency; appeal of determination; determination of identity theft; credit to employer's account; misrepresentation; affected individual as interested party; definitions.

Sec. 54f. (1) An employer that is an interested party to a claim for benefits, or the employer's agent, may report to the unemployment agency that the claim is fraudulent because the individual who filed the claim is an impostor. The unemployment agency shall accept reports submitted under this subsection by mail, fax, and any other means approved by the unemployment agency and shall maintain a website for employers to submit reports. A report submitted under this subsection must include all of the following:

(a) A statement that the employer believes that the claim is fraudulent because the individual who filed the claim is an impostor and the facts or evidence supporting its belief.

(b) The name and last known address of the affected individual and, if available, the affidavit signed by the affected individual under subsection (2).

(c) A statement that the employer is not making the report frivolously and that the information contained in the report is, to the best of the employer's knowledge, complete and accurate.

(d) The name, address, electronic mail address, and telephone number of the individual submitting the report.

(e) The signature of the individual submitting the report.

(2) An affected individual may submit an affidavit to an employer or the unemployment agency. The unemployment agency shall include on its website an affidavit form that meets the requirements of this subsection. An affidavit submitted under this subsection must include all of the following:

(a) The name, address, and social security number of the affected individual.

(b) A statement that the affected individual did not file the claim for benefits with the unemployment agency.

(c) A statement that the information in the affidavit is complete and accurate.

(d) The signature of the affected individual.

(3) Upon receiving both a report submitted under subsection (1) and an affidavit submitted under subsection (2), the unemployment agency shall do both of the following:

(a) Make a determination within 2 business days regarding whether the claim is fraudulent and whether the impostor committed identity theft and mail the determination to all interested parties. If the unemployment agency determines that the impostor committed identity theft, the determination must state that the claim is canceled and is null and void.

(b) After making a determination under subdivision (a) that the claim is fraudulent, cancel all benefit payments on the claim.

(4) Upon receiving only a report submitted under subsection (1) or upon receiving only an affidavit submitted under subsection (2), the unemployment agency shall do all of the following:

(a) Notify the impostor by mail that the impostor must, within 10 days after the date of the notice, provide proof of his or her identity by providing the unemployment agency with copies of the acceptable documents as provided in the Form I-9. As used in this subdivision, "Form I-9" means the employment verification form that fulfills the employment verification obligations under 8 CFR 274a.2.

(b) If the impostor does not provide proof of his or her identity pursuant to subdivision (a), the unemployment agency shall do all of the following:

(i) Make a determination that the impostor did not provide proof of his or her identity pursuant to subdivision (a) and cease making payments on the claim until after making a determination under subparagraph (iii).

(ii) Conduct an investigation to determine whether the claim is fraudulent and whether the impostor committed identity theft.

(iii) Make a determination regarding whether the claim is fraudulent and whether the impostor committed identity theft and mail the determination to all interested parties. If the unemployment agency determines that the impostor committed identity theft, the determination must state that the claim is canceled and is null and void.

(iv) After making a determination under subparagraph (iii) that the claim is fraudulent, cancel all benefit payments on the claim.

(c) If the impostor provides proof of his or her identity pursuant to subdivision (a), the unemployment agency shall do both of the following:

(i) Conduct an investigation to determine whether the claim is fraudulent and whether the impostor committed identity theft.

(ii) Make a determination regarding whether the claim is fraudulent and whether the impostor committed identity theft and mail the determination to all interested parties.

(5) An interested party may appeal a determination made under subsection (3) or (4) pursuant to section 32a.

(6) If the unemployment agency determines under subsection (3) or (4) that an impostor committed identity theft to obtain benefits, the unemployment agency shall, within 60 days after the determination becomes final, credit the employer's account for the benefits paid to the impostor that were charged to the employer's account.

(7) Upon the request of an individual, the unemployment agency shall provide the individual with any determinations the unemployment agency made regarding a claim submitted by an impostor to which the individual was an interested party.

(8) An employer that submits a frivolous report or otherwise intentionally misrepresents information in a report submitted under subsection (1), or an individual who intentionally misrepresents information in an affidavit submitted under subsection (2), is subject to the sanctions and penalties as provided in section 54.

(9) An affected individual is an interested party for purposes of this section and any appeals made under section 32a related to a determination made under this section.

(10) As used in this section:

(a) "Affected individual" means an individual whose identity was or is alleged to have been stolen by an impostor.

(b) "Identity theft" means that term as defined in section 24 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.24.

(c) "Impostor" means an individual who committed or is alleged to have committed identity theft to obtain benefits.

History: Add. 2017, Act 225, Eff. Mar. 21, 2018.