



## Ohio Revised Code

### Section 4141.28 Determination of benefit rights and claims for benefits.

Effective: April 3, 2023

Legislation: Senate Bill 302 - 134th General Assembly

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#### BENEFITS

##### (A) FILINGS

Applications for determination of benefit rights and claims for benefits shall be filed with the director of job and family services. Such applications and claims also may be filed with an employee of another state or federal agency charged with the duty of accepting applications and claims for unemployment benefits or with an employee of the unemployment insurance commission of Canada.

When an unemployed individual files an application for determination of benefit rights, the director shall furnish the individual with an explanation of the individual's appeal rights. The explanation shall describe clearly the different levels of appeal and explain where and when each appeal must be filed.

##### (B) APPLICATION FOR DETERMINATION OF BENEFIT RIGHTS

In filing an application, an individual shall furnish the director with the name and address of the individual's most recent separating employer and the individual's statement of the reason for separation from the employer. The director shall promptly notify the individual's most recent separating employer of the filing and request the reason for the individual's unemployment, unless that notice is not necessary under conditions the director establishes by rule. The director may request from the individual or any employer information necessary for the determination of the individual's right to benefits. The employer shall provide the information requested within ten working days after the request is sent. If an employer fails to provide requested information within ten working days, the director shall provide to the tax commissioner the individual's and employer's names, addresses, taxpayer identification numbers if available, and any additional information required by the tax commissioner. The tax commissioner shall confirm to the director whether the individual was included on the most recent annual return filed by the employer pursuant to division



(F) of section 5747.07 of the Revised Code. The tax commissioner shall inform the director if the tax commissioner is unable to provide the requested confirmation. If necessary to ensure prompt determination and payment of benefits, the director shall base the determination on the information that is available.

An individual filing an application for determination of benefit rights shall disclose, at the time of filing, whether or not the individual owes child support obligations.

#### (C) MASS LAYOFFS

An employer who lays off or separates within any seven-day period fifty or more individuals because of lack of work shall furnish notice to the director of the dates of layoff or separation and the approximate number of individuals being laid off or separated. The notice shall be furnished at least three working days prior to the date of the first day of such layoff or separation. In addition, at the time of the layoff or separation the employer shall furnish to the individual and to the director information necessary to determine the individual's eligibility for unemployment compensation.

#### (D) DETERMINATION OF BENEFIT RIGHTS

The director shall promptly examine any application for determination of benefit rights. On the basis of the information available to the director under this chapter, the director shall determine whether or not the application is valid, and if valid, the date on which the benefit year shall commence and the weekly benefit amount. The director shall promptly notify the applicant, employers in the applicant's base period, and any other interested parties of the determination and the reasons for it. In addition, the determination issued to the claimant shall include the total amount of benefits payable. The determination issued to each chargeable base period employer shall include the total amount of benefits that may be charged to the employer's account.

#### (E) CLAIM FOR BENEFITS

The director shall examine the first claim and any additional claim for benefits. On the basis of the information available, the director shall determine whether the claimant's most recent separation and, to the extent necessary, prior separations from work, allow the claimant to qualify for benefits.



Written notice of the determination granting or denying benefits shall be sent to the claimant, the most recent separating employer, and any other employer involved in the determination, except that written notice is not required to be sent to the claimant if the reason for separation is lack of work and the claim is allowed.

If the director identifies an eligibility issue, the director shall immediately send notice to the claimant of the issue identified, specify the week or weeks involved, and identify what the claimant must do to address the issue or who the claimant may contact for more information. The claimant has a minimum of five business days after the notice is sent to respond to the information included in the notice, and after the time allowed as determined by the director, the director shall make a determination. The claimant's response may include a request for a fact-finding interview when the eligibility issue is raised by an informant or source other than the claimant, or when the eligibility issue, if determined adversely, disqualifies the claimant for the duration of the claimant's period of unemployment.

When the determination of a continued claim for benefits results in a disallowed claim, the director shall notify the claimant of the disallowance and the reasons for it.

#### (F) ELIGIBILITY NOTICE

Any base period or subsequent employer of a claimant who has knowledge of specific facts affecting the claimant's right to receive benefits for any week may notify the director in writing of those facts. The director shall prescribe a form for such eligibility notice, but failure to use the form shall not preclude the director's examination of any notice.

To be considered valid, an eligibility notice must: contain in writing, a statement that identifies either a source who has firsthand knowledge of the information or an informant who can identify the source; provide specific and detailed information that may potentially disqualify the claimant; provide the name and address of the source or the informant; and appear to the director to be reliable and credible.

An eligibility notice is timely filed if received or postmarked prior to or within forty-five calendar days after the end of the week with respect to which a claim for benefits is filed by the claimant. An



employer who timely files a valid eligibility notice shall be an interested party to the claim for benefits which is the subject of the notice.

The director shall consider the information contained in the eligibility notice, together with other available information. After giving the claimant notice and an opportunity to respond, the director shall make a determination and inform the notifying employer, the claimant, and other interested parties of the determination.

#### (G) CORRECTED DETERMINATION

If the director finds within the two hundred eight calendar weeks beginning with the Sunday of the week during which an application for benefit rights was filed that a determination made by the director was erroneous due to an error in an employer's report or any typographical or clerical error in the director's determination, or as shown by correct remuneration information received by the director, the director shall issue a corrected determination to all interested parties. The corrected determination shall take precedence over and void the prior determination of the director. The director shall not issue a corrected determination when the commission or a court has jurisdiction with respect to that determination.

#### (H) EFFECT OF COMMISSION DECISIONS

In making determinations, the director shall follow decisions of the unemployment compensation review commission which have become final with respect to claimants similarly situated.

#### (I) PROMPT PAYMENTS

If benefits are allowed by the director, a hearing officer, the commission, or a court, the director shall pay benefits promptly, notwithstanding any further appeal, provided that if benefits are denied on appeal, of which the parties have notice and an opportunity to be heard, the director shall withhold payment of benefits pending a decision on any further appeal.