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HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 148

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING THE DELIVERY OF NOTICES BY THE
DELAWARE DIVISION OF UNEMPLOYMENT COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3318, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3318. Decision on claim by deputy; notice; appeal.

4 (b) Unless a claimant or a last employer who has submitted a timely and completed separation notice in
5 accordance with § 3317 of this title files an appeal within 10 calendar days after such Claims Deputy's determination was
6 mailed to the claimant's and last employer's last known addresses ~~of~~ or otherwise delivered by the Department to the
7 claimant and the last employer, the Claims Deputy's determination shall be final and benefits shall be paid or denied in
8 accordance therewith. If a Claims Deputy's determination awards benefits, such benefits shall be paid promptly in
9 accordance with such determination upon its issuance. If an appeal is filed from a Claims Deputy's determination that
10 awards benefits, benefits shall be paid in accordance with such determination notwithstanding such appeal, but if the
11 appeals tribunal's determination or a determination of the Unemployment Insurance Appeal Board under ~~§§ 3320-3322~~ §§
12 3320 through 3322 of this title, or judicial review under § 3323 of this title, modifies or reverses the award of the benefits,
13 the claimant shall be paid benefits for the weeks of unemployment following the issuance of such an appeals tribunal,
14 Unemployment Insurance Appeal Board or judicial review decision only in accordance with such decisions.

15 Section 2. Amend § 3323, Title 19 of the Delaware Code by making deletions as shown by strike through and
16 insertions as shown by underline as follows:

17 § 3323. Judicial review; procedure.

18 (a) Within 10 days after the decision of the Unemployment Insurance Appeal Board has become final, any party
19 aggrieved thereby may secure judicial review thereof by commencing an action in the Superior Court in the county in
20 which the claimant resides or the employer's place of business is located against the Unemployment Insurance Appeal
21 Board for the review of such decision, in which action any other party to the proceeding before the Unemployment
22 Insurance Appeal Board shall be made a defendant. In such action, a petition, which need not be verified, but which shall

state the grounds upon which a review is sought, shall be served upon the Unemployment Insurance Appeal Board or upon such person as the Unemployment Insurance Appeal Board may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the Unemployment Insurance Appeal Board shall forthwith mail or otherwise deliver through a method authorized by the Department, 1 such copy to each defendant. With its answer the Unemployment Insurance Appeal Board shall certify and file with the Court all documents and papers and a transcript of all testimony taken in the matter together with the Unemployment Insurance Appeal Board's findings of fact and decision therein. The Unemployment Insurance Appeal Board may also certify to the Court questions of law involved in any decision. In any judicial proceeding under this section, the findings of the Unemployment Insurance Appeal Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the Court shall be confined to questions of law. Such actions and the questions so certified shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under this chapter.

Section 3. Amend § 3325, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3325. Recoupment of overpayments of benefits.

The Department shall issue a notice of ~~overpayment~~ overpayment that includes the grounds for the overpayment, and an order for recoupment, ~~stating it's the grounds therefor,~~ before initiating action to collect the overpayment. Unless ~~the person~~ an individual files an appeal to an Unemployment Insurance appeals referee within 10 days after ~~such~~ the order for recoupment was mailed to the ~~person~~ individual at the ~~person's~~ individual's last known ~~address,~~ address or otherwise delivered to the individual by the Department, the order ~~shall be~~ for recoupment is final and recoupment shall be made in accordance with ~~such~~ the order. ~~Appeal~~ An appeal from an Unemployment Insurance appeals referee decision to the Unemployment Insurance Appeal Board must be filed within 10 days after such decision was mailed to the ~~person.~~ Appeal individual or otherwise delivered to the individual by the Department. An appeal from the Unemployment Insurance Appeal Board decision to Superior Court may be made in the same fashion as an appeal of the Unemployment Insurance Appeal Board's benefit decisions.

Section 4. Amend § 3344, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3344. Determination of liability of employer for assessments; administrative and judicial review; time limits.

(c) The Unemployment Insurance Appeal Board's decision shall be final and conclusive as to the liability of the employing unit unless, within 10 days after mailing or other authorized delivery method thereof the complainant or the

Department appeals to the Superior Court for the county in which the complainant resides. The Department may be represented in any such appeal by any qualified attorney employed by the Department and designated by it for that purpose or, at the Department's request, by the Attorney General. In every such appeal the cause shall be decided by the Court from the record, without the aid of a jury, and the Court may affirm, reverse or modify the Unemployment Insurance Appeal Board's decision. The Unemployment Insurance Appeal Board's findings of fact shall not be set aside unless the Court determines that the record contains no substantial evidence that would reasonably support the findings. If the Court finds that additional evidence should be taken, the Court shall remand the case to the Unemployment Insurance Appeal Board for completion of the record. If the Court finds that the Unemployment Insurance Appeal Board has made an error of law, the Court shall reverse or modify the Unemployment Insurance Appeal Board's decision and render an appropriate judgment.

Section 5. Amend § 3359, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3359. Assessment of employer's liability upon neglect or refusal to make assessment report; protest and hearing.

If any employing unit neglects or refuses to make any assessment report required by the rules and regulations of the Department for a period of 30 days after the date on which the assessment report should have been made or if any assessment report which has been made by an employing unit is deemed by the Department to be incorrect, the Department may make an estimate and determination of the liability of such employing unit from any information which the Department may have or may obtain and, according to such estimate and determination so made, may assess the employing unit for the assessments, interest and penalties due from the employing unit and may give notice of such assessment and determination by registered mail or other delivery method authorized by the Department and may make demand upon the employing unit for payment. Such assessment and determination shall, based upon administrative determination of the Department, be final and conclusive as to such employing unit's liability and the amount thereof, only until such time as the employing unit submits the required assessment report(s) to the Department, or unless the employing unit shall protest such assessment and determination within 15 days after the mailing or delivery of the ~~notice thereof~~; notice by other delivery method authorized by the Department. If any employing unit protests the assessment and determination, the employing unit, upon its written request, shall be heard by the Department. Such hearing shall be conducted according to the procedure prescribed by the Department. Immediately after the hearing the Department shall notify the employing unit of its findings and the assessment and determination then made, if any, shall be final and conclusive as to the liability of the employing unit upon the issuance of such notice.

SYNOPSIS

This Act allows the Department of Labor ("Department") to deliver notice by methods other than through mail to reduce costs by using e-mail delivery for certain notices and makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.