

No. 50

AN ACT

HB 1971

Amending the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties," changing the period required for certain decisions to become final.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsections (c) and (e) of section 501 and section 502, act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the "Unemployment Compensation Law," subsection (c) of section 501, amended May 29, 1945 (P.L.1145, No.408) and June 6, 1975 (No.3), subsection (e) of section 501, amended September 27, 1971 (P.L.460, No.108) and section 502, amended December 5, 1974 (P.L.771, No.262), are amended to read:

Section 501. Determination of Compensation Appeals.—* * *

(c) The department shall promptly examine each claim for compensation and on the basis of the facts found by it shall determine whether or not the claim is valid.

Notice of such determination need not be given to the claimant if the claim is determined valid, but if the claim is determined invalid, notice shall be given by the department in writing to the claimant stating that the claim is invalid and the reason therefor.

Notice of such determination need not be given to any base-year employer or last employer of the claimant unless such base-year employer or last employer has filed with the department information in writing which might raise a question as to the eligibility of the claimant for any reason other than his failure to comply with the provisions of section four hundred one (a), in which event notice shall be given as provided herein.

If an employer files with the department such information within **[ten]** *fifteen* days after notice required under section five hundred one (a) or (b) was delivered to him personally, or was mailed to his last known post office address, the department shall issue to such employer (i) a notice in writing of its determination with respect to each claim which is filed by the claimant for a week, the first day of which is on or before the date on which such

information is filed, and (ii) a notice in writing of its determination with respect to the first valid claim which is filed by the claimant during the claimant's benefit year for a week, the last day of which is subsequent to the date on which such information is filed.

If an employer files with the department such information more than **[ten] fifteen** days after notice required under section five hundred one (a) or (b) was delivered to him personally, or was mailed to his last known post office address, the department shall only issue to such employer (i) a notice in writing of its determination with respect to each claim which is filed by the claimant for a week, the first day of which is within the thirty-day period which immediately precedes the date on which such information is filed, and (ii) a notice in writing of its determination with respect to the first valid claim which is filed by the claimant during the claimant's benefit year for a week, the last day of which is subsequent to the date on which such information is filed.

* * *

(e) Unless the claimant or last employer or base-year employer of the claimant files an appeal with the board, from the determination contained in any notice required to be furnished by the department under section five hundred and one (a), (c) and (d), within **[ten (10)] fifteen** calendar days after such notice was delivered to him personally, or was mailed to his last known post office address, and applies for a hearing, such determination of the department, with respect to the particular facts set forth in such notice, shall be final and compensation shall be paid or denied in accordance therewith.

Section 502. Decision of Referee; Further Appeals and Reviews.—Where an appeal from the determination or revised determination, as the case may be, of the department is taken, a referee shall, after affording the parties and the department reasonable opportunity for a fair hearing, affirm, modify, or reverse such findings of fact and the determination or revised determination, as the case may be, of the department as to him shall appear just and proper. The parties and the department shall be duly notified of the referee's decision, and the reasons therefor, which shall be deemed the final decision of the board, unless within **[ten] fifteen** days after the date of such decision the board acts on its own motion, or upon application, permits any of the parties or the department to institute a further appeal before the board. A memorandum of testimony of any hearing before any referee shall be made and be preserved for a period of ninety days following expiration of the period for filing an appeal from the final decision rendered in the case.

Section 2. Section 509 of the act, amended June 22, 1964 (Sp.Sess., P.L.112, No.7), and repealed in part June 3, 1971 (P.L.118, No.6), is amended to read:

Section 509. Finality of Decisions.—Any decision made by the department or any referee or the board shall become final **[ten] fifteen** days after the date thereof, and shall not be subject to collateral attack as to any

application claim or claims covered thereby or otherwise be disturbed, unless appealed from, as hereinbefore provided; but any decision of the board or of a referee, where an appeal has been disallowed by the board, shall nevertheless be subject to appeal to the Court after the same has become final.

Subject to appeal proceedings and judicial review as provided in this act, any right, fact or matter in issue which was directly passed upon or necessarily involved in any decision of a referee or the board or the Court and which has become final shall be conclusive for all purposes of this act and shall not be subject to collateral attack as among all affected parties who had notice of such decision: Provided, however, That whenever an appeal involves a question as to whether services were performed by a claimant in employment or for an employer or whether remuneration paid constituted wages, a decision thereon shall not be conclusive as to an employing entity's liability for contributions unless the employing entity was given special notice of such issue and of the pendency of the appeal and was afforded a reasonable opportunity by the referee or the board to adduce evidence bearing on such question.

Section 3. This act shall take effect immediately.

APPROVED—The 14th day of April, A. D. 1976.

MILTON J. SHAPP