**Section 2720.130 Employing Unit Protest Of Benefit Payment**

a) A protest ("Notice Of Possible Ineligibility" or a letter in lieu of that notice) raises questions of eligibility, entitles an employing unit to receive an Adjudicator's Determination regarding questions of eligibility raised and, if timely and sufficient as set out in this Section, provides party status and appeal rights of the Determination relating to the protest.

1) The employing unit shall file, either by mail or by hand delivery, the protest within 10 calendar days after the date of notice shown on the Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party form (see Section 2720.10 for the computation of time). The protest shall be addressed, if mailed, or hand delivered to the Director at the local office designated on the form received by the employing unit. If the employing unit mails or hand delivers the protest to an address other than the address designated on the form received by the employing unit, timeliness of the notice shall be measured from the date of receipt at the proper address instead of the postmark date or the hand delivery date, as the case may be.

2) The protest should include the names, addresses and telephone numbers of persons having knowledge of the facts and circumstances supporting the allegation whom the employing unit designates for the Department to contact for further information. The protest must meet the sufficiency requirements of subsection (d).

b) Because, during a claim series, acts or circumstances may occur that could result in ineligibility, an employing unit's protest with respect to those acts or circumstances will be deemed timely (irrespective of the 10 day time limit set forth in subsection (a)) and will, if also sufficient, provide party status; except, if the employing unit protests that, under Section 500C of the Act, the individual was not able to work, available for work or actively seeking work, then that part of the employing unit's protest will not be deemed timely and will not provide status for any week prior to the week in which it was received by the Department. Whether or not protest is deemed timely or an employing unit is provided party status, ineligibility is determined from the week in which the acts or circumstances occurred.

1) EXAMPLE: The employing unit from which the individual was separated does not respond within 10 days after the date of mailing of the Notice of Claim to Last Employer, Last Employing Unit or other Interested Party. Later, during the claim series, the employing unit offers the individual suitable work that he refuses without good cause. The employing unit then protests, alleging that the individual should be ineligible under Section 603 of the Act (refusal of work). This protest shall be deemed timely beginning with the week in which the refusal of work occurred.

2) EXAMPLE: During the third week of the claim series, the school district that employed the individual as a teacher during the last academic term offers him a contract to teach again in the next academic term. During the seventh week of the claims series, the school district protests that the individual should be ineligible under Section 612 of the Act. This protest shall be deemed timely as of the date that it is determined that the contract was offered to the individual.

3) EXAMPLE: The individual has been receiving benefits for 14 weeks. In the 15th week, his former employer hears that the individual may have been incapacitated by an injury beginning in week 6 of the claim series. The employer protests that the individual should be ineligible for benefits under Section 500C of the Act beginning with week 6 of the claim series. While the Department will investigate this individual's eligibility for benefits beginning with week 6, the employer will only be a party to the determination of eligibility beginning with the week in which the employer notifies the Department of its allegation of possible ineligibility.

c) When an employer alleges that an individual who was initially an unemployed individual but was later not unemployed under Section 239 of the Act because the individual returned to work for the employer and continued to claim benefits, a protest shall be considered timely if filed within 45 days after the date the Department mails the employer a Statement of Benefit Charges (BEN-118) that includes a period in which the employer alleges that the individual claimed benefits while he was employed by the employer.

d) As long as the employing unit gives a reason or reasons for the allegation and the reason is directly related to the issue raised and is not a general conclusion of law, the allegation shall be considered sufficient. A protest under this Section is sufficient only if limited to one claimant, except as otherwise provided in subsection (d)(3), and only if it:

1) Alleges on the protest that the claimant is not eligible for benefits or waiting week credit by providing material reasons or facts in support of the allegation, other than a conclusion of law, which would support the claimant being held ineligible for benefits; or

A) EXAMPLE: Sufficient – Employing Unit's Protest Alleges:

i) The claimant is not able to and available for work because she is in school.

ii) The claimant is not able to and available for work because he has no child care during working hours.

iii) The claimant is not able to and available for work because he has removed himself to an area of substantially less favorable work opportunities.

iv) The claimant is not able to and available for work because she is seeking part-time work.

v) The claimant is not able to and available for work because he is in an occupation for which there is no demand in the labor market area.

B) EXAMPLE: Not Sufficient – Employing Unit's Protest Alleges:

i) The claimant is not actively seeking work (general conclusion of law).

ii) The claimant is not available for work (no reason given for allegation).

iii) The claimant is not able to and available for work because he was discharged from his last job (reason given is not related to the issue raised);

2) Alleges that the claimant is not eligible for benefits because, in connection with any separation or layoff, the claimant has been or will be paid vacation pay, vacation pay allowance, or pay in lieu of vacation, in which event, the employing unit must designate, on the protest, within 10 calendar days after notification of the filing of the claim, or within 10 calendar days after the date the vacation pay is paid or payable, the period to which that pay is allocated. It is not necessary that a protest be filed for each individual vacation payment. No designation is necessary for disqualification purposes for vacation payments made during an announced period of shutdown for the purpose of inventory, vacation, or both; or

3) Alleges that the claimant is not eligible for benefits because he is unemployed due to his involvement in a labor dispute, and the employing unit, within 5 days after the start of the period of the work stoppage due to a labor dispute, provides the Department with the name and Social Security number of each worker involved in the dispute. This list of workers shall be filed with the Department's Labor Dispute section. Upon receipt of the list, the Department will mail a Labor Dispute Questionnaire to the employing unit and the union or representative of the employees involved in the labor dispute. The employing unit, union, and/or employee representative must respond to the questionnaire within 10 days. If the questionnaire is not received within 10 days, the Department will issue a decision based on the information contained in the record at that time. The filing of the list will constitute an allegation of possible ineligibility under the labor dispute provision (Section 604 of the Act) only and shall not be construed as an allegation of possible ineligibility under any other provisions of the Act.

e) In instances in which the Department decides that the protest has not met the sufficiency requirements of subsection (d)(1), the Department shall immediately provide the employing unit with a notice, including a description of the needed information. If the protest with all required information is refiled within 10 days after the date the Department mailed the notice to the employing unit, the protest shall be considered filed on the date the Department originally received it. In no event shall the employing unit have the right to correct an insufficient protest regarding the same claim more than once. In the event that a protest does not meet the sufficiency requirements of subsection (d)(1) after being refiled pursuant to this subsection, the Adjudicator shall determine the protest to be insufficient. A Decision that a protest is insufficient may be appealed pursuant to Section 2720.200.

f) Academic Personnel

1) For any weeks beginning March 15, 2020 and ending January 2, 2021, an educational institution or educational service agency, collectively referred to as an "academic employer", will be considered to have filed a timely and sufficient protest and to have established employer party status as to allegations of claimants' ineligibility under Section 612 of the Act, provided the academic employer files with the Department an "Academic Personnel Reporting Form for Professional Employees – June 2020", within three weeks after receipt of the form, that alleges the individuals named on the form:

A) performed services for it in an instructional, research, or principal administrative capacity during the first of those academic years or terms or prior to the vacation period or holiday recess;

B) were employed by the academic employer as of March 1, 2020; and

C) have a contract or a reasonable assurance, as defined in 56 Ill. Adm. Code 2915.1, that the individuals listed on the form will perform services in the second of those academic years or terms, or at the conclusion of the vacation period or holiday recess.

2) The Academic Personnel Reporting Form for Professional Employees – June 2020 shall be filed by submitting it to DES.AcademicPersonnel @Illinois.gov through the Illinois File Transfer Utility Tool at https://filet.illinois.gov/filet/pimupload.asp. The filing of the Academic Personnel Reporting Form for Professional Employees – June 2020 will constitute the academic employer's allegation of ineligibility under the academic personnel provision (Section 612 of the Act) as to only the individuals whose information appears on the form and shall not be construed as an allegation of possible ineligibility under any other provisions of the Act.

(Source: Amended at 44 Ill. Reg. 17647, effective October 23, 2020)