**Section 2765.325 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 of the Act**

a) Except as provided in the other subsections of this Section and in Sections 2765.326, 2765.332, 2765.333 and 2765.334, the last employer prior to the beginning of the individual's benefit year (which is defined at Section 242 of the Act) for whom the individual provided services during at least 30 days beginning with the first day of the individual's base period (which is defined at Section 237 of the Act) but prior to the beginning of his benefit year shall be liable for the benefit charges or payments in lieu of contributions, as the case may be, which result from any benefits paid to that individual.

1) Example: Immediately prior to filing his claim for unemployment benefits, the individual provides services to Company A, a liable, contributing employer, for 20 days. Prior to this period, he provides services to Company B, a liable, contributing employer, for 30 days. Prior to working for Company B and throughout his base period, the individual has provided at least 10 days of service to Company A. In this example, Company A will be the chargeable employer and will be liable for any benefit charges which might accrue as a result of any benefits paid to this individual. This is because the individual's last employer prior to the beginning of his benefit year is Company A and he provided services to Company A during at least 30 days during the period from the beginning of the individual's base period to the beginning of his benefit year. Pursuant to Section 1502.1 of the Act, it is not necessary for the 30 days of services by the individual to be consecutive.

2) Example: Prior to the beginning of his benefit year, the individual provides services only to Company A, a liable, contributing employer, for over ten years. Company A will be this individual's chargeable employer with respect to this individual's entire benefit year because Company A is the individual's last employer of at least 30 days prior to the beginning of his benefit year. If, after claiming benefits for a few weeks, this individual is employed by Company B, a liable, contributing employer, for six months, is laid off by Company B and files an additional claim, Company A will still be the chargeable employer of this individual with respect to any benefit charges which might accrue with respect to the additional claim. Company A remains liable for the benefit charges which accrue during the entire benefit year regardless of the number of times that the individual is laid off and becomes reemployed.

3) Example: Prior to the beginning of his benefit year, the individual is employed on an as-needed basis (some weeks the individual might work four days, other weeks he might not work at all) for Company A, a liable, contributing employer. While so employed by Company A, the individual is also employed on a full time basis for Company B, a liable, contributing employer. The individual is laid off by Company B and is offered two days of work by Company A. After working for these two days, no other work is currently available with Company A, and the individual files a claim for benefits. If the individual has been employed by Company A for at least 30 days from the beginning of his base period to the beginning of his benefit year, Company A will be liable for any benefit charges which might accrue as a result of any benefits which might be paid to this individual. This is because, despite the individual's full time employment with Company B, the individual's last employer for whom he provided services of at least 30 days during the applicable period was Company A, and it was his separation from Company A that caused the individual to become "unemployed."

4) Example: Assume the same facts as in subsection (a)(3), except that, instead of being an as-needed employee, the individual continues to provide less than full time services to Company A and earns less than his weekly benefit amount. In that case, Section 2765.326 shall apply, and Company B will be the chargeable employer because it caused this individual to become unemployed as defined in Section 239 of the Act.

5) Example: The individual is a substitute teacher. Whenever she is available to teach, she calls in for assignments with her school district, a local governmental entity which has elected to make payments in lieu of contributions. During the first semester of the school year, she teaches only 32 days. She, however, did not work for the school district during her base period. If she now files a claim for benefits, her school district will be liable for 50% of any payments in lieu of contributions which would result if she would be paid benefits. This is because, despite her services being performed over a five month period, the school district is the last employer prior to the beginning of her benefit year and she has provided the required 30 days of services during the applicable period. The employer is only liable for 50% of the amount of the benefits paid because the individual performed no services for this employer during her base period (see Section 1405(B) of the Act.)

6) Example: The individual is employed for 25 days during his base period for City A, a local governmental entity which has elected to make payments in lieu of contributions. He then works for Company B, a liable, contributing employer for approximately ten months. After being laid off by Company B, he is again employed by City A which then lays him off after five days. City A will be liable for payments in lieu of contributions equal to 100% of the benefits paid to this individual. This is because City A is the individual's last employer prior to the beginning of his benefit year, and this individual was employed for at least 30 days beginning with the start of his base period and prior to the beginning of his benefit year. City A is liable for 100% of the benefits paid because, in addition to being the chargeable employer as provided in this subsection, the individual also provided services for this employer during his base period. If this employer had met the requirements to be the chargeable employer but this individual had not provided services to this employer during his base period, then this employer would have been liable for only 50% of the payments in lieu of contributions made to this individual as in subsection (a)(5).

7) Example: The individual is employed by several different employers from the beginning of his base period until he first files a claim for benefits. However, he does not provide services for at least 30 days to any single employer during this period. Therefore, there is no chargeable employer, and no employer will be liable for either the benefit charges or payments in lieu of contributions as a result of payments made to this individual during this claim for benefits.

8) Example: An individual is employed during his entire base period for Company A, a liable, contributing employer. After being laid off by Company A, he works for at least 30 days for the State of Illinois, which makes payments in lieu of contributions pursuant to Section 1403 of the Act. If this individual files a claim for benefits, the State of Illinois will be liable for an amount equal to 50% of the benefits paid to this individual since the State of Illinois is the chargeable employer but not a base period employer.

b)

If the last organization or person for whom the individual provided at least 30 days of service is not an employer, as defined by Section 205 of the Act, then no employer shall be the chargeable employer, and any benefit charges or payments in lieu of contributions which accrue as a result of benefits paid to the individual shall not become the benefit charges or the amounts due of any employer. Whether the last organization or person for whom the individual provided at least 30 days of service is an employer, as defined by Section 205 of the Act, is determined as of the effective date of the claim and is unaffected by a later determination of liability based on events which occur after the effective date of the claim.

1) Example: An individual is employed during his entire base period for Company A, a liable, contributing employer. He then leaves Illinois and obtains work in California for at least 30 days for an organization which is not liable under the Act. If this individual is laid off from his California job and files a claim against Illinois based on his Illinois base period wages, no employer shall be liable for any benefit charges for any benefit payments made to this individual. This is because the California organization is not an employer under the Act and, therefore, cannot be the chargeable employer under this Section.

2) Example: An individual is employed during his entire base period for Company A, a liable, contributing employer. After being laid off by Company A, he works for at least 30 days for the U. S. Postal Service, which is not an employer under the Act and for which reimbursement for any benefits paid is determined pursuant to Federal Regulations. He is then laid off by the Postal Service. If this individual files a claim for benefits, no employer shall be liable for any benefit charges for any benefit payments made to this individual. This is because the U. S. Postal Service is not an employer under the Act and, therefore, cannot be the chargeable employer under this Section.

3) Example: An individual files a claim for benefits, effective March 11, 1990, after having last been employed by Company A which began business as of January 1, 1990. As of March 11, 1990, Company A is not an employer under the Act because it has not yet had one or more employees in each of twenty or more weeks nor has it paid at least $1,500 in wages in a calendar quarter. However, as of September 10, 1990, it has one or more employees in each of twenty or more weeks, and, therefore, its liability is made retroactive to January 1, 1990. In this case, Company A will not be the chargeable employer because its liability is a result of a retroactive determination based on events subsequent to the effective date of the individual's claim.

4) Example: An individual files a claim for benefits, effective March 11, 1990, after having last been employed by Company A which claims that it is not liable under the Act because it has no employees. On September 10, 1990, there is a determination and assessment, which becomes final, which holds that Company A is liable for unpaid contributions on the wages of workers whom Company A had not considered employees. This is not a retroactive determination, and Company A can be held to be the chargeable employer of this individual.

c) Notwithstanding any other provision of this Subpart, no employer shall be the chargeable employer of an individual who was either discharged for misconduct connected with the work or voluntarily left such employer without good cause or refused to accept an offer of or to apply for suitable work from that employer without good cause. Unless the next subsequent employing unit, if it is an employer under the Act and paid the individual an amount equal to his weekly benefit amount in each of four weeks after the beginning of the individual's benefit year, any payments which might result in benefit charges will be pooled and not charged to any employer. However, if the circumstances of the voluntary quit are those described in Section 601(B)(1) or Section 601(B)(2) of the Act, then, any payments which might result in benefit charges will become pooled costs and not be charged to any employer.

1) Example: The individual quits Company A where he was employed for at least 30 days. He then accepts employment with Company B where he works for two weeks and earns in excess of his weekly benefit amount. He is then laid off and files a claim for benefits. Pursuant to Section 601(B)(2) of the Act, this individual is not ineligible for benefits. However, if it is decided that the individual quit this job without good cause, no employer will be charged for the benefits paid to the individual. This is because the individual quit his job with Company A without good cause but under the circumstances described in Section 601(B)(2) of the Act.

2) Example: The individual is held to be ineligible for benefits by the claims adjudicator, Referee, Board of Review or court as a result of his discharge for misconduct by Company A, a liable, contributing employer. Thereafter, he returns to work and performs services for Company B, a liable, contributing employer, for three days per week for three weeks and is then laid off. However, he does earn an amount in excess of his weekly benefit amount in each of these weeks. He then performs services for Company C for one week and earns in excess of his weekly benefit amount before being laid off for lack of work. The individual is eligible for benefits because he met the requalification requirements of Section 602 of the Act. No employer will be the chargeable employer of this individual because he was discharged for misconduct connected with his work and because the next subsequent employing unit after his discharge did not pay him an amount equal to or in excess of his weekly benefit amount in each of four weeks.

3) Example: The individual is discharged from Company A, files a claim for benefits and is determined to be ineligible under Section 602 of the Act. He then returns to work for Company B, a liable, contributing employer, and earns in excess of his weekly benefit amount in each of four weeks. He is then laid off by Company B. Thereafter he is employed by Company C before being laid off. Company B will be this individual's chargeable employer because it was the individual's single employer following his discharge for misconduct from Company A, is an employer under the Act, paid the individual an amount necessary to requalify for benefits and the requalification occurred after the beginning of the individual's benefit year.

4) Example: Assume the same facts as in subsection (d)(3) except that Company B discharged the individual for misconduct connected with his work. In this case, no employer will be the chargeable employer because Company B cannot be the chargeable employer of an individual if it discharged him for misconduct connected with his work and, though Company C was the individual's next subsequent employer following his discharge for misconduct from Company B and paid the individual the amount necessary to requalify for benefits and the requalification occurred after the beginning of the individual's benefit year, the disqualifying event occurred after the beginning of the individual's benefit year.

5) Example: Assume the same facts as in subsection (d)(3) except that Company B is not an employer under the Act. In this case, no employer will be charged as a result of any benefits paid to this individual. This is because the individual was discharged for misconduct connected with his work by Company A and earned an amount equal to or in excess of his weekly benefit amount in each of four weeks after the beginning of his benefit year from Company B, an organization which is not subject to the Act. However, because it is not an employer under the Act, it cannot be charged and, therefore, the charges will be pooled.

6) Example: An individual is employed by Company A for several months before being laid off for lack of work. The individual does not file a claim for benefits immediately but goes on vacation. When he returns from vacation, Company A offers the individual a suitable job which he refuses without good cause. However, during that same week, he is hired by Company B where he then works less than 30 days but earns in excess of his weekly benefit amount in each of four weeks. When he is laid off by Company B, the individual files a claim for benefits and is not subject to disqualification for his refusal of work from Company A because he has had sufficient earning from Company B to purge any possible disqualification. Company A will not be charged for benefit charges which result from payments to this individual because the individual refused the Company's offer of suitable work without good cause. Company B will not be charged either because it paid this individual the amounts necessary to purge the possible disqualification before the beginning of the individual's benefit year. Therefore, in this case, no employer will be the chargeable employer, and the benefit charges will be pooled.

d) If no employer meets the requirements of this Subpart to be the chargeable employer for the second of two consecutive benefit years but there was a chargeable employer for the first benefit year, that employer will be the chargeable employer for that second benefit year.

Example: The individual is discharged for misconduct connected with his work by Company A, files a claim for benefits and is held ineligible pursuant to Section 602 of the Act. He then returns to work for Company B, a liable and contributing employer, and earns an amount equal to or in excess of his current weekly benefit amount in each of four calendar weeks, which is sufficient to requalify for benefits. He is then laid off by Company B and is now eligible for benefits. Under these circumstances, Company B will be charged for any benefit charges which accrue because it was the single employer which paid the individual the amount necessary to requalify for benefits and the requalification occurred after the beginning of the individual's benefit year. If this individual later files a second benefit year claim, Company B did not employ the individual for at least 30 days and paid the amount necessary for the individual to requalify prior to the beginning of the second benefit year. However, Company B will be the chargeable employer because there is no other employer that meets the requirements for chargeability and because it was the chargeable employer for the individual's first benefit year.

e) Whether the last employer for whom the individual provided at least 30 days of service is the chargeable employer is determined based on the circumstances as of the effective date of the initial claim for that benefit year and is unaffected by events which occur after that date.

Example: Company A is determined to be the chargeable employer of an individual who is laid off for lack of work and has filed an initial claim for unemployment insurance benefits. After a few weeks, this individual is recalled to work by Company A. A few months later, he quits his job with Company A and files an additional claim. Company A is still the chargeable employer since chargeability is determined based on the circumstances as of the effective date of the initial claim and is unaffected by the separation which occurred after that date.

f) Notice that a claim for benefits has been filed will be sent by the Agency to every employing unit for whom the individual provided services, subsequent to the services provided to the chargeable employer, prior to the beginning of the individual's benefit year.

(Source: Amended at 16 Ill. Reg. 12165, effective July 20, 1992)