**Section 2765.329 Application of "30 Day" Requirement for Determining the Chargeable Employer Pursuant to Section 1502.1 of the Act for Benefit Years Beginning on or After January 1, 1993**

a) Effective with benefit years beginning on or after January 1, 1993, except as provided in the other subsections and in Sections 2765.326, 2765.330, 2765.332, 2765.333 and 2765.334, the last employer, prior to the beginning of each week claimed by the individual, for whom the individual provided services during at least 30 days beginning with the first day of the individual's base period (defined in Section 237 of the Act) but prior to the beginning of the week claimed shall be liable for the benefit charges or payments in lieu of contributions, as the case may be, that result from any benefits paid to that individual for that week of unemployment. Unless stated to the contrary, each of the examples in this Section assumes a benefit year beginning date on or after January 1, 1993.

1) EXAMPLE: Prior to the beginning of the week beginning on January 24, 1993, the individual provides services only to Company A, a liable, contributing employer, for over ten years. Company A is this individual's chargeable employer with respect to this individual for the week ending January 30, 1993 because Company A is the individual's last employer of at least 30 days prior to the beginning of the week beginning on January 24, 1993. If, after claiming benefits for a few weeks, this individual provides services to Company B, a liable, contributing employer, for six months, is laid off by Company B and files an additional claim, Company B will be the chargeable employer of this individual with respect to any benefit charges that might accrue with respect to weeks which are paid to the individual after the effective date of the additional claim.

2) EXAMPLE: Immediately prior to filing his claim for unemployment benefits for the week beginning on January 24, 1993, 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. Company A is the chargeable employer and is liable for any benefit charges that might accrue as a result of any benefits paid to this individual for the week ending January 30, 1993. Company A is the individual's last employer prior to the beginning of the week beginning on January 24, 1993 because he provided services to Company A during at least 30 days during the period from the beginning of his base period to the beginning of the week beginning on January 24, 1993. Pursuant to Section 1502.1 of the Act, it is not necessary for the 30 days of services by the individual to be consecutive.

3) EXAMPLE: 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 for the week ending January 23, 1993. If the individual has provided services to Company A for at least 30 days since the beginning of his base period, Company A will be liable for any benefit charges which might accrue as a result of any benefits that might be paid to this individual for this week. 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 he or she is available to teach, he calls in for assignments with his school district, a local governmental entity that has elected to make payments in lieu of contributions. During the first semester of the school year, he teaches only 32 days. He, however, did not work for the school district during his base period. If he now files a claim for benefits, his school district will be liable for 50% of any payments in lieu of contributions that would result if he would be paid benefits. This is because, despite his services being performed over a five month period, the school district is the last employer prior to the first day of the week with respect to which he is claiming benefits and he has performed 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 his base period (see Section 1405(B) of the Act).

6) EXAMPLE: The individual performed services for 25 days during his base period for City A, a local governmental entity that has elected to make payments in lieu of contributions. He then performs services for Company B, a liable, contributing employer, for approximately 10months. After being laid off by Company B, he is again employed by City A that then lays him off after he has performed services 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 first day of the week with respect to which the individual claimed benefits, and this individual performed services for at least 30 days beginning with the start of his base period and prior to the beginning of the week with respect to the individual claimed benefits. 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). Should this individual return to work for Company B and again become eligible for benefits, Company B would be the chargeable employer with respect to any weeks that occur after this subsequent separation.

7) EXAMPLE: The individual is employed by several different employers from the beginning of his base period until the beginning of the first week he claims benefits. However, he does not perform services for at least 30 days for any single employer during this period. Therefore, there is no chargeable employer for that week or for any subsequent weeks, 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 until the claimant has performed services for an employer for at least 30 days.

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 performs services for at least 30 days for the State of Illinois, which makes payments in lieu of contributions under Section 1403 of the Act. If this individual files a claim for benefits, the State will be liable for an amount equal to 50% of the benefits paid to this individual since the State is the chargeable employer but not a base period employer.

9) EXAMPLE: An individual files a claim with a benefit year that begins on December 1, 1992. Company A is determined to be the chargeable employer with respect to this claim. The individual returns to work on January 5, 1993, and performs services for 30 days for Company B before being laid off and filing an additional claim. Despite having worked for Company B for 30 days, Company A remains the chargeable employer in this case because the benefit year began prior to January 1, 1993.

10) EXAMPLE: An individual is laid off of work by Company A and files a new claim, effective January 24, 1993. Company A is found to be the chargeable employer. Thereafter, the individual obtains a part time job with Company B and works four days each week. However, she never earns over her weekly benefit amount in any week. Even after working for Company B for more than 30 days, Company A remains the chargeable employer. This is because Company B has not separated this individual nor caused her to become unemployed as a result of a reduction of the work offered, as required by Section 1502.1.

11) EXAMPLE: An individual is employed by Easy Living Realty as a secretary for 45 days during his base period. He leaves Easy Living Realty and obtains work as a secretary for Victorian Realty for 10 days. He is then promoted to real estate salesman, paid solely by commission. After working as salesman for several months, he is laid off from this job. He then files a claim for benefits. Easy Living Realty is the chargeable employer in this case. The time that this individual spent as a real estate salesman for Victorian Realty is not included in determining whether he was employed for 30 days for that employer because those services do not constitute employment under the Act.

12) EXAMPLE: An individual is employed by Company A for 29 days before being laid off from his job. He then files an unemployment insurance claim with a benefit year beginning date of January 24, 1993. On February 15, 1993, this individual returns to work for Company A and works only one day. For any weeks beginning after February 15, Company A meets the requirements to be the chargeable employer.

b) If, with respect to a week, 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 for that week, and any benefit charges or payments in lieu of contributions which accrue as a result of benefits paid to the individual for that week 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 last day of the week for which the claim is made and is unaffected by a later determination of liability based on events which occur after that week. However, if it is later determined that the organization or person has become an employer under the Act, the organization or person can be the chargeable employer for any weeks occurring after the date on which the organization or person became liable.

1) EXAMPLE: An individual is employed during his entire base period for Company A, a liable, contributing employer. He then leaves Illinois and performs services in California for at least 30 days for an organization that 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 with respect to weeks when the California organization was the last entity to employ the individual. This is because the California organization is not an employer under the Act and, therefore, cannot be the chargeable employer under this Section. However, if this individual would return to work for Company A and then again become eligible for benefits, Company A would be the chargeable employer with respect to any weeks which occur after this later separation from Company A.

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 performs services 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 under federal regulations. He is then laid off by the U.S. 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. However, if this individual would return to work for Company A and then again become eligible for benefits, Company A would be the chargeable employer with respect to any weeks that occur after this later separation from Company A.

3) EXAMPLE: An individual files a claim for benefits, effective March 28, 1993, after having last been employed by Company A that began business as of January 1, 1993. As of March 28, 1993, 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 4, 1993, it has one or more employees in each of 20 or more weeks, and, therefore, its liability is made retroactive to January 1, 1993. In this case, Company A will be the chargeable employer only with respect to any weeks that begin after September 3, 1993, because, while the effective date of its liability is January 1, 1993, it did not meet the criteria for liability under the Act until September 4, 1993.

4) EXAMPLE: An individual files a claim for benefits for the week ending January 23, 1993, after having last been employed by Company A, an employing unit that claims it is not liable under the Act because it has no employees. On September 10, 1993, there is a determination and assessment, covering all of 1992 and the first two quarters of 1993, which becomes final and which holds that Company A is liable for unpaid contributions on the wages of workers whom Company A had not considered employees. This determination and assessment is based on events that occurred prior to the week beginning January 17, 1993. Therefore, Company A can be held to be the chargeable employer of this individual for the week ending January 23, 1993.

c) Notwithstanding any other provision of this Subpart, with respect to a week of benefits claimed, no employer shall be the chargeable employer of an individual who was either discharged for misconduct connected with the work or voluntarily left the employer without good cause or refused to accept an offer of or to apply for suitable work from that employer without good cause. Unless a subsequent employer paid the individual an amount equal to his or her weekly benefit amount in each of four weeks after the beginning of the week in question, any payments that might result in benefit charges for that week 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 (2), (6) or (7) of the Act, then, any payments that 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 performed services for at least 30 days to accept 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 for the week ending January 23, 1993. Company A is the individual's last employer prior to the beginning of the week ending on January 23, 1993, and the individual 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 the week beginning on January 17, 1993. Under Section 601(B)(2) of the Act, this individual is not ineligible for benefits. However, no employer will be charged for the benefits paid to the individual for the week ending January 23, 1993. 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 and claims benefits for the week ending March 6, 1993. 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 for the week ending March 6, 1993 because he was discharged for misconduct connected with his work and because, after his discharge, there was no single employer that paid him an amount equal to or in excess of his weekly benefit amount in each of four weeks. However, if this individual later returns to work for Company B and performs services for an additional 21 days before being laid off, Company B could be the chargeable employer with respect to any weeks that occur subsequent to this separation.

3) EXAMPLE: The individual is discharged from Company A, files a claim for benefits for the week ending January 23, 1993 and is determined to be ineligible under Section 602 of the Act. He then returns to work for Company A and earns in excess of his weekly benefit amount in each of four weeks. He is then laid off by Company A. Thereafter, he performs services for Company B for less than 30 days before being laid off. Company A will be this individual's chargeable employer with respect to any weeks subsequent to this second separation from it because it was the individual's single employer following his discharge for misconduct, is an employer under the Act and paid the individual an amount necessary to requalify for benefits. If this individual had performed services for Company B for 30 days, then it would be this individual's chargeable employer.

4) EXAMPLE: Assume the same facts as in subsection (c)(3) except that, after performing services 30 days for Company B, the individual was discharged for misconduct connected with his work. In this case, no employer will be the chargeable employer with respect to this subsequent separation because Company B cannot be the chargeable employer of an individual if it discharged him for misconduct connected with his work.

5) EXAMPLE: Assume the same facts as in subsection (c)(3) except that Company B, that employed the individual for 30 days, 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 after his second separation (unless a later chargeable employer is found for subsequent weeks). This is because, even though the individual requalified for benefits by earning an amount equal to or in excess of his weekly benefit amount in each of four weeks from Company A, he was subsequently employed for 30 days by Company B, an organization that is not subject to the Act.

6) EXAMPLE: An individual is employed by Company A for several months and performs services for Company A for at least 30 days 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 that he refuses without good cause. However, during that same week, he is hired by Company B where he then performs services for 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 for the week ending January 23, 1993. He is not subject to disqualification for his refusal of work from Company A because he has had sufficient earnings from Company B to purge any possible disqualification. Company A will not be charged for benefit charges that result from payments to this individual because the individual refused the Company's offer of suitable work without good cause. Company B is not the employer that paid the claimant earnings that allowed him to requalify because the individual was never disqualified. Company B did not employ this individual for at least 30 days. Therefore, in this case, no employer will be the chargeable employer for the week ending January 23, 1993 and thereafter until such time as there is an employer that meets the requirements of the Act to be chargeable.

d) If no employer meets the requirements of this Subpart to be the chargeable employer for the second of two consecutive benefit years, then no employer will be the chargeable employer for that second benefit year (effective with benefit years beginning on or after September 22, 1992).

EXAMPLE: The individual files a claim after being employed at several temporary jobs. Company A employed this individual for 30 days during the first quarter of his base period. No subsequent employer employed this individual for 30 days. Company A is the chargeable employer. This individual then files a second benefit year claim. His employment with Company A occurred prior to the base period of the second benefit year claim, and no subsequent employer employed him for at least 30 days. Therefore, no employer will be chargeable for this claim. However, if the second benefit year began after January 1, 1993, while no employer might initially be liable for any benefit charges, should this individual become employed and then later unemployed, a subsequent employer could be liable for any charges that might accrue after that period of unemployment.

e) 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.

(Source: Amended at 43 Ill. Reg. 6480, effective May 14, 2019)