



Payment of Benefits to Unemployed Workers Who Worked for Family Member or Family Corporation

What the law says: This issue is discussed in Sections 43(g) and 46(d) of the *Michigan Employment Security Act*.

Generally, Section 43(g) of the law prevents an unemployed worker from receiving any unemployment benefits based on work for the worker's child or spouse, and based upon work for the worker's parent if the worker was under age 18 at the time the work was performed. The work is considered to be performed for one of these relatives if the relative was the **sole proprietor** of the business (that is, the sole owner of a business that was not incorporated). The work is also considered to be performed for these relatives if the business was a **partnership** (that is, owned by several people but not a corporation) owned entirely by two or more of the relatives mentioned above. A single-member LLC is treated like a sole proprietorship. Otherwise, an LLC is treated like a partnership.

Generally, Sections 46(g) and (h) of the law limit a worker's unemployment benefits based on work for a corporation to more than 7 weeks, if more than 50% of the shares in the corporation are owned by either (1) the unemployed worker alone, or (2) the unemployed worker's child or spouse, or (3) the unemployed worker in combination with the unemployed worker's child or spouse, or (4) the unemployed worker's parent(s) if the unemployed worker is under age 18 at the time the work was performed. However, to receive even the limited weeks of benefits, both the unemployed worker and the employer must inform the Unemployment Insurance Agency (UIA) of the fact that some or all of the interest owners of the corporation are related to the unemployed worker, or that the unemployed worker owns an interest in the corporation.

Example 1: The unemployed worker works for his wife, who is the sole owner of a business that is not incorporated. The unemployed worker cannot be paid unemployment benefits based on services performed for his wife's unincorporated business.

Example 2: The unemployed worker works for his parents who are the two partners in a partnership. While working for this partnership the unemployed worker turned age 18. Since the partnership was owned entirely by the unemployed worker's parents, he could not draw benefits based on wages for that service until he turned age 18. The week after the week in which the unemployed worker turned 18, he could start accruing qualifying wages based on service for that partnership.

Example 3: The unemployed worker worked for a corporation in which he owned 25% and his wife owned 25%. Because he and his wife, even in combination, **did not own more than 50%**, the unemployed worker's unemployment benefits were not limited.

Example 4: The unemployed worker worked for a corporation in which his daughter owned 60% of the shares and his mother owned 40% of the shares. Because the unemployed worker's daughter owned over 50% of the shares, the unemployed worker's benefits would be limited to 7 weeks (but even these limited benefits could only be paid if both the unemployed worker and the employer notified the UIA of the family relationship with the shareholder(s) of the corporation).

Proof at the Hearing: If the question at the hearing is whether the unemployed worker is entitled to any benefits, or to limited benefits, the burden of proof is on the unemployed worker to show that the unemployed worker is not related to the owners or shareholders of the employer, or that the unemployed worker and employer notified the UIA of the relationship, or that the unemployed worker was over age 18 at the time the services were performed, if the unemployed worker was the child of the owner(s) or shareholder(s).

For Further Help: The UIA Advocacy Program can provide further assistance to employers and/or unemployed workers in preparing for an Administrative Law Judge hearing. Call 1-800-638-3994, Item 2.