

Retirement Benefits

What the law says: This issue is covered by Section 27(f) of the *Michigan Employment Security Act*. The law says that a "retirement benefit" is a payment made by an employer under a plan, or annuity, or pension that is paid based on a worker's age, or years of service, or disability.

Generally, if a worker is receiving a retirement benefit while also receiving unemployment benefits, then the retirement benefit could be used to reduce the unemployment benefit. This would occur only when the employer paying the retirement benefit was also an employer in the "base period" (usually the first 4 of the last 5 completed calendar quarters before the quarter in which the new claim is filed) of the unemployment claim. Also, the reduction would only occur if the employer paid part of the cost of the retirement benefit and only if work performed in the base period of the claim affected the worker's pension.

If the unemployed worker made no contributions (usually by payroll deduction) to the cost of the retirement benefit, then the full monthly amount of the retirement benefit would be divided between each week of the month, and that amount would be subtracted from the unemployment benefit payable for that week. The result could be zero.

If the unemployed worker made some contribution to the cost of the retirement benefit, but less than half, then half of the monthly amount of the retirement benefit would be divided between each week of the month, and that amount would be subtracted from the unemployment benefit payable for that week. The result could be zero.

If the unemployed worker paid half or more of the cost of the retirement benefit, then the retirement benefit would not be used at all to reduce the unemployment benefit.

What interpretations have said: Unemployment benefits will only be reduced in the week in which a retirement benefit is received. If an unemployed worker elects not to receive a retirement benefit for a week or weeks, unemployment benefits will not be reduced for the week or weeks, even if the retirement benefit is later paid retroactive to the week or weeks.



If an unemployed worker receives a lump sum payment of a retirement benefit, but could have received the retirement benefit as a periodic payment (such as once a month), the payment will be considered to have been paid periodically for purposes of reducing unemployment compensation. The periodic payment will be prorated to a weekly basis and used to reduce the weekly unemployment benefit, dollar-for-dollar.

If a worker retires and elects to roll over the proceeds of his or her retirement benefit account into an Individual Retirement Account (IRA), with no income tax impact, the worker will not be considered to have "received" the retirement benefit for unemployment compensation purposes, and the retirement benefit will not be used to reduce unemployment benefits as described in this Fact Sheet.

Examples: An unemployed worker worked for an employer in the base period of the unemployment compensation claim, and that employer contributed the entire amount to the worker's pension. The worker made no contribution. The monthly amount of the pension is \$400.00, and the weekly unemployment benefit amount is \$275. The full amount of the \$400.00 pension is divided between 4-1/3 weeks in a month, which equals \$92.38 per week. The entire \$92.38 is subtracted from the \$275.00 weekly unemployment benefit rate. The resulting weekly unemployment benefit check will be \$182.62, rounded down to \$182.00 as required by law.

If, instead, the worker made some contribution to the pension, but less than half, then half of the \$400.00 monthly pension, or \$200.00, would be divided by 4-1/3 weeks in a month. The result is \$46.19, and that amount is subtracted from the claimant's weekly unemployment benefit rate of \$275, resulting in a weekly unemployment benefit payment of \$228.81, rounded down to \$228.00 as required by law.

Proof at the Hearing: The employer has the burden to prove that unemployment benefits should be reduced based on receipt by the unemployed worker of a pension, and also of proving the amount of the employer's share of the cost of the benefit.

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