

STATE OF MICHIGAN  
UNEMPLOYMENT INSURANCE APPEALS COMMISSION

In the Matter of

██████████,

Appeal Docket No.: 20-██████████-262906W

Claimant,

Agency Case No.: ██████████

██████████,

Employer.

DECISION OF THE UNEMPLOYMENT INSURANCE APPEALS COMMISSION

This matter is before the Unemployment Insurance Appeals Commission (Commission) pursuant to the claimant's timely appeal from a January 13, 2021 decision by an Administrative Law Judge (ALJ). The ALJ's decision modified a December 14, 2020 Unemployment Insurance Agency (Agency) redetermination and found the claimant ineligible for benefits under the remuneration and offset provisions of the Michigan Employment Security Act (Act), Sections 48 and 27(c), for weeks ending June 13, 2020 through September 5, 2020. After reviewing the record in this matter, we find the ALJ's decision must be modified. Our reasons are as follows.

The claimant's benefit year began March 29, 2020 with a weekly benefit amount of \$362.00. The parties agreed that the claimant received weekly payments from the employer in the amount of \$393.50 for the weeks ending June 20, 2020 through September 5, 2020. The payments were made by her employer pursuant to the Families First Coronavirus Response Act. The claimant did not perform any services for the employer during the weeks at issue.

Under Sections 48(1) and 27(c) of the Act, a claimant is eligible for unemployment benefits for each week that he or she worked less than full-time and had remuneration that does not exceed 1.5 times his or her weekly benefit rate.

Section 48 of the Act provides in part:

- (1) **An individual shall be considered unemployed for any week during which he or she performs no services and for which remuneration is not payable to the individual, or for any week of less than full-time work if the remuneration payable to the individual is less than 1-1/2 times his or her weekly benefit rate**, except that for payable weeks of benefits beginning after the effective date of the amendatory act that added section 15a and before October 1, 2015, an individual is considered unemployed for any week or less of full-time work if the remuneration payable to the individual is less than 1-

3/5 times his or her weekly benefit rate. However, any loss of remuneration incurred by an individual during any week resulting from any cause other than the failure of the individual's employing unit to furnish full-time, regular employment shall be included as remuneration earned for purposes of this section and section 27(c). The total amount of remuneration lost shall be determined pursuant to regulations prescribed by the unemployment agency. For the purposes of this act, an individual's weekly benefit rate means the weekly benefit rate determined pursuant to section 27(b).

- (2) **All amounts paid to a claimant by an employing unit or former employing unit for a vacation or a holiday, and amounts paid in the form of retroactive pay, pay in lieu of notice, severance payments, salary continuation, or other remuneration intended by the employing unit as continuing wages or other monetary consideration as the result of the separation, excluding SUB payments as described in section 44, shall be considered remuneration in determining whether an individual is unemployed under this section and also in determining his or her benefit payments under section 27(c), for the period designated by the contract or agreement providing for the payment, or if there is no contractual specification of the period to which payments shall be allocated, then for the period designated by the employing unit or former employing unit. However, payments for a vacation or holiday, or the right to which has irrevocably vested, after 14 days following a vacation or holiday shall not be considered wages or remuneration within the meaning of this section.**

(Emphasis added.)

Section 27(c) of the Act provides in part:

- (c) Subject to subsection (f), all of the following apply to eligible individuals:
- (1) Each eligible individual must be paid a weekly benefit rate with respect to the week for which the individual earns or receives no remuneration. Notwithstanding the definition of week in section 50, if within 2 consecutive weeks in which an individual was not unemployed within the meaning of section 48 there was a period of 7 or more consecutive days for which the individual did not earn or receive remuneration, that period is considered a week for benefit purposes under this act if a claim for benefits for that period is filed not later than 30 days after the end of the period.
  - (2) The weekly benefit rate is reduced with respect to each week in which the eligible individual earns or receives remuneration at the rate of 40 cents for each whole \$1.00 of remuneration earned or received during that week. Beginning October 1, 2015, an eligible individual's weekly benefit rate is reduced at the rate of 50 cents for each whole \$1.00 of

remuneration in which the eligible individual earns or receives remuneration in that benefit week. The weekly benefit rate is not reduced under this subdivision for remuneration received for on-call or training services as a volunteer firefighter, if the volunteer firefighter receives less than \$10,000.00 in a calendar year for services as a volunteer firefighter.

- (3) An individual who receives or earns partial remuneration may not receive a total of benefits and earnings that exceeds  $1\frac{3}{5}$  times his or her weekly benefit amount. For each dollar of total benefits and earnings that exceeds  $1\frac{3}{5}$  times the individual's weekly benefit amount, benefits are reduced by \$1.00. Beginning October 1, 2015, the total benefits and earnings for an individual who receives or earns partial remuneration may not exceed  $1\frac{1}{2}$  times his or her weekly benefit amount. The individual's benefits are reduced by \$1.00 for each dollar by which the total benefits and earnings exceed  $1\frac{1}{2}$  times the individual's weekly benefit amount.
- (4) If the reduction in a claimant's benefit rate for a week in accordance with subdivision (2) or (3) results in a benefit rate greater than zero for that week, the claimant's balance of weeks of benefit payments is reduced by 1 week.
- (5) All remuneration for work performed during a shift that terminates on 1 day but that began on the preceding day is considered to have been earned by the eligible individual on the preceding day.

The burden is on the claimant to prove their eligibility. *Dwyer v Unemployment Compensation Agency*, 321 Mich 178 (1948).

It is undisputed that the claimant did not work for the employer during the week ending June 13, 2020 and did not receive payment during that week. It is also undisputed that the claimant did not work for the employer during the weeks ending June 20, 2020 through September 5, 2020, but did receive a payment of \$393.50 from the employer during each of those weeks. Payments received through the Families First Coronavirus Response Act are deemed salary continuation and are considered remuneration under Section 48(2) of the Act. We observe that the remuneration paid to the claimant for each week did not exceed \$543.00 (her weekly benefit rate of \$362.00 multiplied by 1.5).

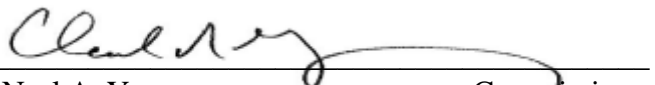
Based on the foregoing, we find that the claimant is eligible to receive the full benefit amount for the week ending June 13, 2020 and is eligible to receive a reduced benefit amount for the weeks ending June 20, 2020 through September 5, 2020 under Sections 48 and 27(c) of the Act.

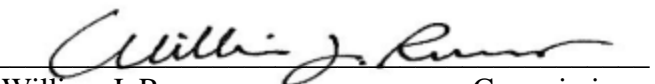
Therefore,

IT IS ORDERED that the ALJ's decision is hereby MODIFIED.

The claimant is eligible to receive the full benefit amount for the week ending June 13, 2020 under Sections 48 and 27(c) of the Act. The claimant is eligible to receive a reduced benefit amount for the weeks ending June 20, 2020 through September 5, 2020 under Sections 48 and 27(c) of the Act.

This matter is referred to the Agency for action consistent with this decision.

  
\_\_\_\_\_  
Neal A. Young Commissioner

  
\_\_\_\_\_  
William J. Runco Commissioner

  
\_\_\_\_\_  
Lester A. Owczarski Commissioner

MAILED AT LANSING, MICHIGAN JULY 28, 2021

This decision shall be final unless EITHER (1) the Unemployment Insurance Appeals Commission RECEIVES a written request for rehearing on or before the deadline, OR (2) the appropriate circuit court RECEIVES an appeal on or before the deadline. The deadline is:

**TO PROTECT YOUR RIGHTS, YOU MUST BE ON TIME. AUGUST 27, 2021**

### English

**IMPORTANT!** This document(s) contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document.

**IMMEDIATELY:** If needed, call 1-866-500-0017 for assistance in the translation and understanding of the information in the document(s) you have received.

### Arabic

مهم! نم. كعدئ اوف وأ / و كعدئ ايل وؤس جو كل اطلبنا تاضن يوعت قوقح نع مدم تامول عم ىلع (قئائول) قئيتول هذه ايوحت اهمم دنسمل اذه يف كدراول تامول عمل مهفت نأ

(قئائول) قئيتول يف تامول عمل مهفو تمجرت يف كدعاسمل 1-866-500-0017 ىلع لصرتا، رمألا مزل اذ! روفلا ىلع اهتيفلت يتلا

### Spanish

**¡IMPORTANTE!** Este (s) documento (s) contiene información importante sobre sus derechos, responsabilidades y / o beneficios de compensación por desempleo. Es fundamental que entienda la información de este documento.

**INMEDIATAMENTE:** Si es necesario, llame al 1-866-500-0017 para obtener ayuda en la traducción y comprensión de la información en el documento (s) que ha recibido.

### Mandarin

**重要！** 本文件包含有关您的失业补偿权利，责任和/或利益的重要信息。了解本档中的信息至关重要。

**立即：** 如果需要，请致电1-866-500-0017以协助翻译和了解您收到的文件中的信息。

### Albanian

**E rëndësishme!** Ky dokument përmban informacione të rëndësishme për të drejtat, përgjegjësitë dhe / ose përfitimet e papunësisë. Është e rëndësishme të kuptojmë informacionin në këtë dokument.

**Menjëherë:** Nëse është e nevojshme, telefononi 1-866-500-0017 për të ndihmuar në përkthimin dhe kuptimin e informacionit në dokumentet që keni marrë.