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AB-2886 Disability benefits: eligibility determinations: benefit computations: overpayment determinations: appeals. (2015-2016)

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Assembly Bill No. 2886

CHAPTER 276

An act to amend, repeal, and add Sections 2707.2, 2707.4, and 2737 of, to add Section 2707.8 to, and to add and repeal Sections 2707.7 and 2737.5 of, the Unemployment Insurance Code, relating to disability compensation.

[Approved by Governor September 09, 2016. Filed with Secretary of State September 09, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2886, Committee on Insurance. Disability benefits: eligibility determinations: benefit computations: overpayment determinations: appeals.

Existing law authorizes the Employment Development Department to administer the disability compensation program, which provides for the partial compensation for the wage losses suffered by eligible individuals unemployed because of sickness or injury. Existing law requires, after a claim for benefits is filed, the department to determine the eligibility of the claimant for benefits and to notify the claimant of the determination. Existing law allows the claimant to appeal to an administrative law judge within 20 days from mailing or personal service of the determination, which may be extended for good cause.

This bill would provide that, before March 1, 2018, any individual who submits an appeal to an administrative law judge within 30 days from the mailing or personal service of the determination has good cause to extend the 20-day period. The bill would, commencing March 1, 2018, extend that appeal period to within 30 days from mailing or personal service of the determination notice.

Existing law generally requires, upon the filing of a claim for disability benefits, the Employment Development Department to promptly make a computation on the claim setting forth the maximum amount of benefits potentially payable during the disability benefit period and the weekly benefit amount and to promptly notify the claimant of the computation. Existing law allows the claimant to, within 20 days after the mailing or personal service of the notice of computation or recomputation, protest the accuracy of the computation or recomputation, requires the department to consider any protest and notify the claimant of the recomputation or denial of recomputation, and allows the claimant to appeal to an administrative law judge within 20 days from mailing or personal service of the notice of denial of recomputation, which may be extended for good cause.

This bill would provide that, before March 1, 2018, any individual who submits an appeal to an administrative law judge within 30 days from the mailing or personal service of the notice has good cause to extend the 20-day period. The bill would, commencing March 1, 2018, extend that period allowed to the claimant to protest the accuracy of the computation or recomputation to the department to within 30 days of the mailing or personal service of the notice. The bill would also, commencing March 1, 2018, extend the appeal period to the administrative law judge to within 30 days from mailing or personal service of the notice of denial of recomputation.

Under existing law, any person who receives an overpayment of disability benefits is liable for the amount overpaid unless specified conditions apply. Existing law requires the Director of Employment Development to determine the amount of the overpayment and to notify the recipient of the basis of the overpayment determination by mail or personal service, as provided. Existing law allows the person affected to file an appeal to an administrative law judge within 20 days from the date of mailing or serving of the notice of overpayment determination. Existing law requires, after affording reasonable opportunity for a fair hearing, the administrative law judge to make a decision regarding the findings set forth in the overpayment determination notice, and requires that decision to be final unless within 20 days from the date of notification or mailing of the judge's decision a further appeal is initiated to the California Unemployment Insurance Appeals Board, as specified.

This bill would provide that, before March 1, 2018, any individual who submits an appeal to an administrative law judge within 30 days from the mailing or personal service of the notice has good cause to extend the 20-day period. The bill would, commencing March 1, 2018, extend that appeal period to the administrative law judge to within 30 days of mailing or serving of the determination notice. The bill would also, commencing March 1, 2018, extend the appeal period to the appeals board to within 30 days from the date of notification or mailing of the administrative law judge's decision.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2707.2 of the Unemployment Insurance Code is amended to read:

2707.2. (a) The department shall consider the facts submitted by the employer pursuant to Section 2707.1 and make a determination as to the eligibility of the claimant for benefits. The department shall promptly notify the claimant of the determination and the reasons therefor. The claimant may appeal therefrom to an administrative law judge within 20 days from mailing or personal service of the notice of determination. The 20-day period may be extended for good cause. The director shall be an interested party to any appeal.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall remain in effect only until March 1, 2018, and as of that date is repealed.

SEC. 2. Section 2707.2 is added to the Unemployment Insurance Code, to read:

2707.2. (a) The department shall consider the facts submitted by the employer pursuant to Section 2707.1 and make a determination as to the eligibility of the claimant for benefits. The department shall promptly notify the claimant of the determination and the reasons therefor. The claimant may appeal therefrom to an administrative law judge within 30 days from mailing or personal service of the notice of determination. The 30-day period may be extended for good cause. The director shall be an interested party to any appeal.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall become operative on March 1, 2018.

SEC. 3. Section 2707.4 of the Unemployment Insurance Code is amended to read:

2707.4. (a) The claimant may, within 20 days after the mailing or personal service of the notice of computation or recomputation, protest the accuracy of the computation or recomputation. The 20-day period may be extended for good cause. The department shall consider any such protest and shall promptly notify the claimant of the recomputation or denial of recomputation. The claimant may appeal from a notice of denial of recomputation in the manner prescribed in Section 2707.2. The director shall be an interested party to any appeal.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall remain in effect only until March 1, 2018, and as of that date is repealed.

SEC. 4. Section 2707.4 is added to the Unemployment Insurance Code, to read:

2707.4. (a) The claimant may, within 30 days after the mailing or personal service of the notice of computation or recomputation, protest the accuracy of the computation or recomputation. The 30-day period may be extended for good cause. The department

shall consider any such protest and shall promptly notify the claimant of the recomputation or denial of recomputation. The claimant may appeal from a notice of denial of recomputation in the manner prescribed in Section 2707.2. The director shall be an interested party to any appeal.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall become operative on March 1, 2018.

SEC. 5. Section 2707.7 is added to the Unemployment Insurance Code, to read:

2707.7. (a) Notwithstanding Sections 2707.2 and 2707.4, any individual who submits an appeal under one or more of those sections to an administrative law judge within 30 days from mailing or personal service of the applicable notice shall be considered to have good cause to extend the 20-day period.

(b) This section shall remain in effect only until March 1, 2018, and as of that date is repealed.

SEC. 6. Section 2707.8 is added to the Unemployment Insurance Code, to read:

2707.8. (a) An administrative law judge, after affording a reasonable opportunity for fair hearing, shall, unless the appeal is withdrawn, affirm, reverse, modify, or set aside any determination that is appealed under this article. The claimant and the director shall be promptly notified in writing of the administrative law judge's decision, together with reasons for the decision. The decision shall be final unless, within 30 days after mailing of the decision, further appeal is initiated to the appeals board pursuant to Section 1336. The 30-day limitation may be extended for good cause.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 7. Section 2737 of the Unemployment Insurance Code is amended to read:

2737. (a) Within 20 days from the date of mailing or serving of the notice of overpayment determination, the person affected may file an appeal to an administrative law judge. The director shall be an interested party to any such appeal. The administrative law judge, after affording reasonable opportunity for a fair hearing, shall, unless the appeal is withdrawn, affirm, reverse, modify, or set aside the findings set forth in the notice of overpayment determination. The party and the director shall be notified of the administrative law judge's decision, together with his or her reasons therefor, which shall be final unless within 20 days from the date of notification or mailing of the decision a further appeal is initiated to the appeals board pursuant to Section 1336. The 20-day period for an appeal to the administrative law judge or to the appeals board may be extended for good cause.

"Good

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall remain in effect only until March 1, 2018, and as of that date is repealed.

SEC. 8. Section 2737 is added to the Unemployment Insurance Code, to read:

2737. (a) Within 30 days from the date of mailing or serving of the notice of overpayment determination, the person affected may file an appeal to an administrative law judge. The director shall be an interested party to any such appeal. The administrative law judge, after affording reasonable opportunity for a fair hearing, shall, unless the appeal is withdrawn, affirm, reverse, modify, or set aside the findings set forth in the notice of overpayment determination. The party and the director shall be notified of the administrative law judge's decision, together with his or her reasons therefor, which shall be final unless within 30 days from the date of notification or mailing of the decision a further appeal is initiated to the appeals board pursuant to Section 1336. The 30-day period for an appeal to the administrative law judge or to the appeals board may be extended for good cause.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall become operative on March 1, 2018.

SEC. 9. Section 2737.5 is added to the Unemployment Insurance Code, to read:

2737.5. (a) Notwithstanding Section 2737, any individual who submits an appeal under that section to an administrative law judge within 30 days from mailing or personal service of the notice of overpayment determination shall be considered to have good cause to extend the 20-day period.

(b) This section shall remain in effect only until March 1, 2018, and as of that date is repealed.