

Enrolled
Senate Bill 110

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Employment Department)

CHAPTER

AN ACT

Relating to the agents of employing units; amending ORS 657.265, 657.267, 657.269 and 657.295; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 657.265 is amended to read:

657.265. When a claimant files an initial claim or an additional claim, the Employment Department promptly shall give written notice of the claim filing to the claimant's most recent employing unit **or agent of the employing unit**. If the claimant did not receive or will not receive remuneration from qualifying employment, as described in ORS 657.176, in an amount greater than or equal to four times the claimant's weekly benefit amount from the claimant's most recent employing unit, the Employment Department shall notify the claimant's next previous employing unit or units **or agents of the employing unit or units** until the Employment Department has notified all of the claimant's former employing units, **or the agents of the employing units**, that, in the aggregate, have paid or will pay the claimant remuneration from qualifying employment, as described in ORS 657.176, in an amount that is equal to or exceeds four times the claimant's weekly benefit amount.

SECTION 2. ORS 657.267 is amended to read:

657.267. (1) An authorized representative shall promptly examine each claim for waiting week credit or for benefits and, on the basis of the facts available, make a decision to allow or deny the claim. Information furnished by the claimant, the employer or the employer's agents on forms provided by the Employment Department pursuant to the authorized representative's examination [shall] **must** be accompanied by a signed statement that such information is true and correct to the best of the individual's knowledge. Notice of the decision need not be given to the claimant if the claim is allowed but, if the claim is denied, written notice [shall] **must** be given to the claimant. If the claim is denied, the written notice [shall] **must** include a statement of the reasons for denial, and if the claim is denied under any provision of ORS 657.176, the notice **must** also [shall] set forth the specific material facts obtained from the employer and **the employer's agents that are** used by the authorized representative to support the reasons of the denial. The written notice [shall] **must** state the reasons for the decision.

(2) If the claim is denied under any provision of ORS 657.176, written notice of [such] **the** decision [shall] **must** be given to the employing unit [which], **or to the agent of the employing unit, that**, in the opinion of the Director of the Employment Department, is most directly involved with the facts and circumstances relating to the disqualification.

(3) Notice of a decision that was wholly or partially based on information filed with the director in writing within 10 days after the notice provided for in ORS 657.265 *[shall]* **must** be given to any employing unit **or agent of the employing unit** that *[has so]* filed *[such]* **the** information.

(4) If a decision to allow payment made pursuant to this section does not require notice, that decision may be amended by an authorized representative. The amendment *[shall]* **must** be made by written notice *[which provides for a]* **informing the recipient of the** right of appeal pursuant to ORS 657.269. The amendment must be issued within one year of the original decision to allow payment, except in cases of alleged willful misrepresentation or fraud. A decision requiring notice, made pursuant to this section, may be amended unless it has become a final decision under ORS 657.269.

SECTION 3. ORS 657.269 is amended to read:

657.269. (1)(a) Unless the claimant or one of the employing units **or agents of the employing units** entitled to notice under ORS 657.267 or 657.268 *[within 20 days after delivery of such notice or, if mailed, within 20 days after the same was mailed to the party's last-known address, files with the Director of the Employment Department]* **files** a request for hearing upon the decision **with the Director of the Employment Department in a timely manner as determined under subsection (2) of this section,** *[it shall be]* **the decision is** final and benefits *[shall]* **must** be paid or denied *[in accordance therewith, unless otherwise provided by law]* **accordingly.**

(b) If the decision is to allow benefits, the director shall pay *[such]* **the** benefits regardless of any pending hearing on the claim.

(2) **A request for hearing upon the decision under subsection (1) of this section must be filed within 20 days after delivery of the notice required under ORS 657.267 or 657.268 or, if mailed, within 20 days after the notice was mailed to the party's last-known address.**

SECTION 4. ORS 657.295 is amended to read:

657.295. (1) Witnesses other than parties subpoenaed *[pursuant to]* **in proceedings involving** ORS 657.265, 657.266 to 657.269, 657.270 to 657.280 or 657.290 shall be allowed fees at a rate fixed by the Director of the Employment Department. *[Such]* Fees and all expenses of proceedings before the director or the Employment Appeals Board involving disputed claims, excepting charge for services rendered by counsel or other agent representing the claimant, employer or other interested person, are deemed a part of the expense of administering this chapter, and *[no]* **an** individual claiming benefits *[shall]* **may not** be charged fees of any kind in any proceedings under this chapter by the director or representatives of the director.

(2) Notwithstanding any other law, a person in any proceeding before the director or Employment Appeals Board may be represented by counsel or other agent authorized by such person. No *[such]* counsel or agent representing an individual who is claiming benefits shall charge or receive for *[such]* **the** services more than an amount approved by the director. As used in this subsection, "person" has the meaning defined in ORS 174.100 and also includes this state and all political subdivisions *[therein]* **of this state.**

SECTION 5. **This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.**

Passed by Senate February 28, 2011

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 2, 2011

.....
Bruce Hanna, Speaker of House

.....
Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State