

2023 Kansas Statutes

44-710b. Rate of contributions, benefit cost rate and benefit liability, notification; review and redetermination; judicial review; periodic notification of benefits charged; federal employers held harmless for fraud; improper payments information review; cessation of federal COVID-19 benefit programs. (a) By the secretary of labor. The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto, on or before November 30 of the calendar year immediately preceding the calendar year in which such rate takes effect. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If the secretary of labor grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer's rate of contributions or benefit liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to K.S.A. 44-710(c), and amendments thereto, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. Any such hearing conducted pursuant to this section shall be heard in the county where the contributing employer maintains its principle place of business. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days.

(b) (1) The secretary shall, without necessity of a request by an employer or a hearing, immediately and fully credit any contributing employer's, governmental rated employer's or reimbursing employer's account for any benefits paid upon a determination by the secretary that such benefits were an improper payment or paid to any person who received such benefits: (A) By fraud; or (B) in error where any conditions imposed by this act for the receipt of benefits were not fulfilled or where the recipient was not qualified to or disqualified from receiving such benefits.

(2) (A) Contributing employers, rated governmental employers and reimbursing employers shall be held harmless for and shall not be required to reimburse the state for any benefits paid that have been identified by the employer and reported to and determined by the secretary as fraudulent or as an improper payment, unless the secretary determines that such benefits were received properly and not: (i) By fraud; or (ii) in error where any conditions imposed by this act for the receipt of benefits were not fulfilled or where the recipient was not qualified to or disqualified from receiving such benefits. Any such determination by the secretary shall be subject to appeal as provided by the employment security law.

(B) Reimbursing employers shall be refunded for reimbursements made to the state for any claims or benefits paid on or after March 15, 2020, that are or have been reported to the secretary and determined by the secretary as fraudulent. Amounts refunded shall become due, subject to appeal as provided by the employment security law, upon a determination by the secretary, as provided by subparagraph (A), that the benefits were paid properly and not by fraud or in error.

(C) For the time period of March 15, 2020, through December 31, 2022, identifications of fraud reported to the secretary pursuant to subparagraphs (A) and (B) shall not be subject to any time limitation for disputing a claim or for appeal pursuant to K.S.A. 44-710, and amendments thereto, or pursuant to any other provision of the employment security law.

(3) The secretary shall review all reimbursing employer accounts and shall apply credit for any benefits previously paid by fraud or in error, as provided by paragraph (1), that have been charged against a reimbursing employer's account and have not

yet been recovered through normal recovery efforts.

(c) Judicial review. Any action of the secretary upon an employer's timely request for a review and redetermination of its rate of contributions or benefit liability, in accordance with subsection (a), is subject to review in accordance with the Kansas judicial review act. Any action for such review shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under K.S.A. 44-709(i), and amendments thereto, and the workmen's compensation act.

(d) Periodic notification of benefits charged. The secretary of labor may provide by rules and regulations for periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts, and any such notification, in the absence of an application for redetermination filed in such manner and within such period as the secretary of labor may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after notice and opportunity for hearing, and the secretary's findings of facts in connection therewith may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for any calendar year and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact made by the secretary of labor in proceedings to redetermine the contribution rate of an employer. The review or any other proceedings relating thereto as provided for in this section may be heard by any duly authorized employee of the secretary of labor and such action shall have the same effect as if heard by the secretary.

(e) The secretary shall review the information reported by the United States department of labor pursuant to the payment integrity information act of 2019, public law 116-117, and any other relevant information available from the United States department of labor and any relevant information held by the department of labor available to the secretary regarding improper payment amounts for the state of Kansas for the period beginning on March 15, 2020, through December 31, 2022.

(f) Any federal unemployment insurance benefit program established as a result of COVID-19 or any pandemic shall not be continued after the ending date of the federal program through the use of Kansas state employment security fund contributions made by Kansas employers.

History: L. 1945, ch. 220, § 7; L. 1971, ch. 180, § 6; L. 1973, ch. 205, § 8; L. 1976, ch. 370, § 64; L. 1977, ch. 181, § 5; L. 1986, ch. 318, § 60; L. 1997, ch. 182, § 80; L. 2004, ch. 179, § 61; L. 2010, ch. 17, § 76; L. 2013, ch. 106, § 9; L. 2021, ch. 92, § 18; May 13.