

**268.07 BENEFIT ACCOUNT.**

Subdivision 1. **Application for unemployment benefits; determination of benefit account.** (a) An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the commissioner may require. The applicant must be unemployed at the time the application is filed and must provide all requested information in the manner required. If the applicant is not unemployed at the time of the application or fails to provide all requested information, the communication is not considered an application for unemployment benefits.

(b) The commissioner shall examine each application for unemployment benefits to determine the base period and the benefit year, and based upon all the covered employment in the base period the commissioner shall determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The determination is known as the determination of benefit account. A determination of benefit account must be sent to the applicant and all base period employers, by mail or electronic transmission.

(c) If a base period employer did not provide wage information for the applicant as provided for in section 268.044, or provided erroneous information, the commissioner may accept an applicant certification as to wage credits, based upon the applicant's records, and issue a determination of benefit account.

(d) The commissioner may, at any time within 24 months from the establishment of a benefit account, reconsider any determination of benefit account and make an amended determination if the commissioner finds that the determination was incorrect for any reason. An amended determination must be promptly sent to the applicant and all base period employers, by mail or electronic transmission.

(e) If an amended determination of benefit account reduces the weekly unemployment benefit amount or maximum amount of unemployment benefits available, any unemployment benefits that have been paid greater than the applicant was entitled is considered an overpayment of unemployment benefits. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

Subd. 2. **Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment benefits.** (a) To establish a benefit account, an applicant must have:

- (1) high quarter wage credits of \$1,000 or more; and

(2) wage credits, in other than the high quarter, of \$250 or more.

(b) If an applicant has established a benefit account, the weekly unemployment benefit amount available during the benefit year is the higher of:

(1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of 66-2/3 percent of the state's average weekly wage; or

(2) 50 percent of the applicant's average weekly wage during the high quarter, to a maximum of 43 percent of the state's average weekly wage.

The applicant's average weekly wage under clause (1) is computed by dividing the total wage credits by 52. The applicant's average weekly wage under clause (2) is computed by dividing the high quarter wage credits by 13.

(c) The state's maximum weekly unemployment benefit amount and an applicant's weekly unemployment benefit amount and maximum amount of unemployment benefits available is rounded down to the next lower whole dollar. The state's maximum weekly benefit amount, computed in accordance with section 268.035, subdivision 23, applies to a benefit account established effective on or after the last Sunday in October. Once established, an applicant's weekly unemployment benefit amount is not affected by the last Sunday in October change in the state's maximum weekly unemployment benefit amount.

(d) The maximum amount of unemployment benefits available on any benefit account is the lower of:

(1) 33-1/3 percent of the applicant's total wage credits; or

(2) 26 times the applicant's weekly unemployment benefit amount.

Subd. 2a. [Repealed by amendment, 1996 c 417 s 9]

Subd. 3. **Second benefit account requirements.** To establish a second benefit account following the expiration of a benefit year on a prior benefit account, an applicant must have sufficient wage credits to establish a benefit account under subdivision 2 and must have performed services in covered employment after the effective date of the prior benefit account. The wages paid for that employment must equal not less than eight times the weekly unemployment benefit amount of the prior benefit account. The purpose of this subdivision is to prevent an applicant from establishing more than one benefit account as a result of one loss of employment.

Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit account is final unless an applicant or base period employer within 20 calendar days after the sending of the determination or amended determination files an appeal. Every determination or amended

determination of benefit account must contain a prominent statement indicating in clear language the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

(b) Any applicant or base period employer may appeal from a determination or amended determination of benefit account on the issue of whether services performed constitute employment and covered employment. Proceedings on the appeal are conducted in accordance with section 268.105.

**Subd. 3b. Limitations on applications and benefit accounts.** (a) An application for unemployment benefits is effective the Sunday of the calendar week that the application was filed. Upon specific request of an applicant, an application for unemployment benefits may be backdated one calendar week before the Sunday of the week the application was actually filed. An application may be backdated only if the applicant was unemployed throughout the period of the backdating. If an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the application is effective the Sunday of the calendar week the individual first attempted to file an application.

(b) A benefit account established under subdivision 2 is effective the date the application for unemployment benefits was effective.

(c) A benefit account, once established, may later be withdrawn only if:

(1) a new application for unemployment benefits is filed and a new benefit account is established at the time of the withdrawal; and

(2) the applicant has not served the nonpayable waiting week under section 268.085, subdivision 1, clause (5).

A determination or amended determination under section 268.101, that was issued before the withdrawal of the benefit account, remains in effect and is not voided by the withdrawal of the benefit account. A determination of ineligibility requiring subsequent earnings to satisfy the period of ineligibility under section 268.095, subdivision 10, applies to the weekly unemployment benefit amount on the new benefit account.

(d) An application for unemployment benefits is not allowed before the Sunday following the expiration of the benefit year on a prior benefit account. Except as allowed under paragraph (b), an applicant may establish only one benefit account each 52 calendar weeks.

Subd. 4. MS 1949 [Repealed, 1951 c 442 s 3]

Subd. 4. MS 1980 [Repealed, 1Sp1982 c 1 s 43]

Subd. 5. [Repealed, 1975 c 336 s 25]

Subd. 6. [Repealed, 1947 c 32 s 9]

**History:** (4337-25) *Ex1936 c 2 s 5; 1937 c 306 s 3; 1939 c 443 s 4; 1941 c 554 s 4; 1943 c 650 s 3; 1945 c 376 s 4; 1947 c 432 s 6; 1949 c 605 s 7,8; 1951 c 442 s 3; 1953 c 587 s 1; 1955 c 816 s 1; 1957 c 780 s 1; 1965 c 741 s 12,13; 1967 c 573 s 4; 1969 c 854 s 7; 1971 c 408 s 1; 1971 c 942 s 7,8; Ex1971 c 10 s 1; 1973 c 599 s 5; 1975 c 104 s 1; 1975 c 336 s 11; 1977 c 4 s 6; 1977 c 297 s 12; 1979 c 284 s 1; 1Sp1982 c 1 s 13-15; 1983 c 372 s 17,18; 1985 c 248 s 70; 1986 c 444; 1987 c 242 s 2; 1987 c 362 s 13-15; 1987 c 385 s 19; 1989 c 65 s 6,7; 1989 c 209 art 2 s 1; 1990 c 516 s 3; 1992 c 484 s 8; 1996 c 417 s 9,31; 1997 c 66 s 29-32,79; 1998 c 265 s 23; 1998 c 408 s 3; 1999 c 107 s 41,66; 2000 c 343 s 4; 2001 c 175 s 23-26; 1Sp2003 c 3 art 1 s 7; art 2 s 8,20; 2004 c 183 s 50-52; 2005 c 112 art 2 s 16; 2007 c 128 art 1 s 12; art 2 s 5,6; art 3 s 12*