

STATE OF NEW YORK

6244

2021-2022 Regular Sessions

IN SENATE

April 19, 2021

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT amending the labor law, in relation to waiving pandemic unemployment assistance repayments under certain circumstances; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 597-a to
2 read as follows:

3 § 597-a. Waiver authority for certain overpayments of pandemic unem-
4 ployment assistance. 1. Definitions. As used in this section: "Pandemic
5 unemployment assistance" shall mean mandatory payments made pursuant to
6 the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act
7 of 2020 during the period of state disaster emergency declared by execu-
8 tive order 202 on March seventh, two thousand twenty.

9 2. Waiver of certain repayments. When a claimant has received any
10 amount of pandemic unemployment assistance to which such claimant was
11 not entitled, the department shall require such claimant to repay the
12 amount of such pandemic unemployment assistance to the department,
13 except that the commissioner shall waive such repayment if he or she
14 determines that:

15 (a) the payment of such pandemic unemployment assistance was without
16 fault on the part of such claimant; and

17 (b) such repayment would be contrary to equity and good conscience.

18 3. Favorability to claimant. Evidence pertaining to paragraphs (a) and
19 (b) of subdivision two of this section shall be interpreted to be favor-
20 able to the claimant to the maximum extent permissible under applicable
21 federal law.

22 4. Notice of right to appeal or request waiver. When a determination
23 by the commissioner or a decision by a referee, the appeal board, or a
24 court results in a decrease or denial of any pandemic unemployment

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 assistance payments previously dispersed to the claimant, or at any
2 other time it is determined that an overpayment of pandemic unemployment
3 assistance payments has occurred, the claimant shall have a right to
4 appeal such determination in accordance with the provisions of title
5 eight of this article. Upon such determination or decision, the claimant
6 shall be notified in writing, by mail or electronically, within fifteen
7 days of such determination or decision of his or her right to appeal
8 such determination or decision and to request a waiver of recovery of
9 such overpayment. Such notice shall include, but shall not be limited
10 to:

11 (i) The total amount of such overpayment and the cause of such over-
12 payment;

13 (ii) The schedule of repayment for such amounts overpaid;

14 (iii) The means by which the commissioner is entitled to collect or
15 recover such overpayment;

16 (iv) An explanation of the claimant's right to appeal such determi-
17 nation or decision in accordance with the provisions of this article and
18 any rules and regulations promulgated thereunder;

19 (v) An explanation of the standards by which a claimant shall not be
20 found liable for the amounts overpaid, as set forth in this section; and

21 (vi) The process by which the claimant may request and obtain a waiver
22 of recovery of such overpayment.

23 5. Implementation of process. The commissioner shall develop and
24 implement a process by which claimants may request and obtain a waiver
25 of recovery of pandemic unemployment assistance overpayment.

26 6. Waiver as an initial determination. Nothing in this section shall
27 be construed to limit the authority of the commissioner to make an
28 initial determination to waive such overpayment without a request by the
29 claimant.

30 § 2. This act shall take immediately and shall apply to all pandemic
31 unemployment assistance repayments assessed on or after March 27, 2020
32 and shall expire December 31, 2021 when upon such date the provisions of
33 this act shall be deemed repealed; provided, however that such repeal
34 shall not affect waivers made for the amounts received prior to that
35 date.